

Status: Point in time view as at 25/08/2008.

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SCHEDULES

SCHEDULE 1

Section 1

THE CARE QUALITY COMMISSION

VALID FROM 01/10/2008

Status

- 1
- (1) The Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
 - (2) The Commission's property is not to be regarded as property of, or property held on behalf of, the Crown.

VALID FROM 01/10/2008

General powers and duties

- 2
- (1) The Commission may do anything which appears to it to be necessary or expedient for the purposes of, or in connection with, the exercise of its functions.
 - (2) This includes, in particular—
 - (a) co-operating with other public authorities in the United Kingdom,
 - (b) acquiring and disposing of land and other property,
 - (c) entering into contracts,
 - (d) providing training, and
 - (e) doing things outside (as well as within) the United Kingdom.
 - (3) It is the duty of the Commission to carry out its functions effectively, efficiently and economically.

Membership

- 3
- (1) The Commission is to consist of—
 - (a) a chair appointed by the Secretary of State, and
 - (b) other members so appointed.
 - (2) The Secretary of State must exercise the powers in sub-paragraph (1) so as to secure that the knowledge and experience of the members of the Commission (taken together) includes knowledge and experience relating to health care, social care and the Mental Health Act 1983 (c. 20).

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- (3) The Secretary of State may, in the prescribed manner, remove the chair or any other member from office if (but only if) the Secretary of State is satisfied that the person—
- (a) is unable or unfit to carry out the duties of that office,
 - (b) is failing to carry out those duties, or
 - (c) is disqualified from holding office (or was disqualified at the time of appointment).
- (4) The Secretary of State may by regulations make provision as to—
- (a) the appointment of the chair and other members (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment), and
 - (b) subject to this paragraph of this Schedule, the tenure of office of the chair and other members (including the circumstances in which they are to cease to hold office, are disqualified from holding office or may be suspended from office).
- (5) Regulations under sub-paragraph (4)(b) relating to the suspension of a person from office may only provide for suspension where it appears to the Secretary of State that one of the conditions in sub-paragraph (3) is or may be satisfied in relation to that person.

Commencement Information

II Sch. 1 para. 3 partly in force; Sch. 1 para. 3 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/10/2008

Remuneration and allowances

- 4 (1) The Commission must pay to its chair, or to any other member, such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines, the Commission must pay or make provision for the payment of such pension, allowances or gratuities as the Secretary of State may determine to or in respect of a person who is or has been the chair or any other member of the Commission.
- (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chair of the Commission to receive compensation, the Commission must—
- (a) pay to that person, or
 - (b) make provision for the payment to that person of, such compensation as the Secretary of State may determine.

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VALID FROM 01/10/2008

Employees

- 5
- (1) The Commission must appoint a chief executive, who is to be an employee of the Commission.
 - (2) The Commission may appoint such other employees as it considers appropriate.
 - (3) Employees of the Commission are to be appointed on such terms and conditions as the Commission may determine.
 - (4) Without prejudice to its other powers, the Commission may pay, or make provision for the payment of—
 - (a) pensions, allowances and gratuities, or
 - (b) compensation for loss of employment or reduction of remuneration,to or in respect of its employees.

Procedure

- 6
- (1) The Commission must appoint an advisory committee (“the advisory committee”) for the purpose of giving advice or information to it about matters connected with its functions.
 - (2) In considering how to exercise its functions, the Commission must have regard to relevant advice and information given to it by the advisory committee (whether or not given at its request).
 - (3) The Commission may appoint such other committees and sub-committees as it thinks fit.
 - (4) The advisory committee and any committee or sub-committee appointed under sub-paragraph (3) may consist of or include persons who are not members of the Commission.
 - (5) The advisory committee must include persons of a prescribed description.
 - (6) The Commission may pay such remuneration and allowances as it thinks fit to persons who—
 - (a) are members of its committees and sub-committees, but
 - (b) are not members of the Commission.
 - (7) The Commission may in all other respects regulate its own procedure.
 - (8) The validity of proceedings of the Commission is not affected—
 - (a) by any vacancy in its membership,
 - (b) by any defect in the appointment of a member, or
 - (c) by any person—
 - (i) acting as a member even though ineligible for appointment when purportedly appointed, or
 - (ii) acting as a member after having ceased to be a member.

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Commencement Information

I2 Sch. 1 para. 6 partly in force; Sch. 1 para. 6 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/10/2008

Exercise of functions

- 7
- (1) The Commission may arrange for—
 - (a) any of its committees, sub-committees, members or employees, or
 - (b) any other person,
 to exercise any of its functions on its behalf.
 - (2) If the Commission arranges for the exercise of any function as mentioned in sub-paragraph (1)(b), the arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, any such person.
 - (3) The reference in sub-paragraph (1) to any of the Commission's committees does not include the advisory committee.

VALID FROM 01/10/2008

Assistance

- 8
- (1) The Commission may arrange for such persons as it thinks fit to assist it in the exercise of any of its functions in relation to—
 - (a) a particular case, or
 - (b) cases of a particular description.
 - (2) Such arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

VALID FROM 01/10/2008

Payments and loans to the Commission

- 9
- (1) The Secretary of State may make payments to the Commission of such amounts, at such times and on such conditions (if any) as the Secretary of State considers appropriate.
 - (2) The Secretary of State may, with the approval of the Treasury, lend money to the Commission on such terms (including terms as to repayment and interest) as the Secretary of State may determine.
 - (3) Except as provided by sub-paragraph (2), the Commission has no power to borrow money.

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VALID FROM 01/10/2008

Accounts

- 10 (1) The Commission must keep accounts in such form as the Secretary of State may determine.
- (2) The Commission must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.
- (3) The Commission must send copies of the annual accounts to—
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General,
- within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.
- (4) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts, and of the report on them, before Parliament.
- (5) In this paragraph “financial year” means—
- (a) the period beginning with the day on which the Commission is established and ending with the next 31 March following that day, and
 - (b) each successive period of 12 months ending with 31 March.

VALID FROM 01/10/2008

Seal and evidence

- 11 The application of the seal of the Commission must be authenticated by the signature—
- (a) of any member of the Commission, or
 - (b) of any other person who has been authorised by the Commission (whether generally or specifically) for that purpose.
- 12 A document—
- (a) purporting to be duly executed under the seal of the Commission, or
 - (b) purporting to be signed on behalf of the Commission,
- is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

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VALID FROM 01/10/2008

SCHEDULE 2

Section 6

TRANSFERS OF PROPERTY AND STAFF ETC.

Transfer schemes

- 1 (1) The Secretary of State may make one or more transfer schemes for—
- (a) the transfer of property, rights and liabilities of the Commission for Healthcare Audit and Inspection to the Care Quality Commission or the Crown;
 - (b) the transfer of property, rights and liabilities of the Commission for Social Care Inspection to the Care Quality Commission or the Crown;
 - (c) the transfer of property, rights and liabilities of the Mental Health Act Commission—
 - (i) to the Care Quality Commission or the Welsh Ministers, or
 - (ii) to the Crown;
 - (d) the transfer of property, rights and liabilities of the Crown to the Care Quality Commission.
- (2) The property, rights and liabilities which may be the subject of a scheme include—
- (a) any that would otherwise be incapable of being transferred or assigned,
 - (b) rights and liabilities under a contract of employment, and
 - (c) criminal liabilities.
- (3) A scheme under this paragraph may define the property, rights and liabilities to be transferred by specifying or describing them (including describing them by reference to a specified part of the transferor's undertaking).
- (4) A scheme under this paragraph may contain provision for the payment of compensation by the Secretary of State to any person or body (other than one mentioned in sub-paragraph (1)) whose interests are adversely affected by the scheme.
- (5) A scheme under this paragraph may include supplementary, incidental, transitional and consequential provision.
- (6) The Secretary of State may not make a scheme under this paragraph for the transfer of property, rights or liabilities to the Welsh Ministers unless the scheme is made with the consent of the Welsh Ministers.

Transfer

- 2 The property, rights and liabilities which are the subject of a scheme under paragraph 1 are, by virtue of this paragraph, transferred on the day appointed by the scheme in accordance with the provisions of the scheme.

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Employment

- 3 The transfer by paragraph 2 of the rights and liabilities relating to an individual's contract of employment does not break the continuity of the individual's employment and, accordingly—
- (a) the individual is not to be regarded for the purposes of Part 2 of the Employment Rights Act 1996 (c. 18) as having been dismissed by virtue of the transfer, and
 - (b) the individual's period of employment with the transferor counts as a period of employment with the transferee for the purposes of that Act.
- 4 (1) Paragraph 2 does not operate to transfer the rights and liabilities under an individual's contract of employment if, before the transfer takes effect, the individual informs the transferor or transferee that the individual objects to the transfer.
- (2) Where an individual does inform the transferor or transferee as specified in subparagraph (1), the individual's contract of employment with the transferor is terminated immediately before the date on which the transfer would occur; but the individual is not, for any purpose, to be regarded as having been dismissed by the transferor.
- (3) This paragraph is without prejudice to any right of an individual employed by a transferor to terminate the individual's contract of employment if (apart from the change of employer) a substantial change is made to the individual's detriment in the individual's working conditions.

Transitional

- 5 (1) Anything done by or in relation to the transferor for the purposes of or in connection with anything transferred by paragraph 2 which is in effect immediately before it is transferred is to be treated as if done by or in relation to the transferee.
- (2) There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything so transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
- (3) A reference to the transferor in any document relating to anything so transferred is to be taken (so far as necessary for the purposes of or in consequence of the transfer) as a reference to the transferee.
- (4) A transfer under paragraph 2 does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

SCHEDULE 3

Section 52

AMENDMENTS OF MENTAL HEALTH ACT 1983

VALID FROM 01/04/2009

- 1 In this Schedule “the MHA” means the Mental Health Act 1983 (c. 20).

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VALID FROM 01/04/2009

- 2 In section 57 of the MHA (treatment requiring consent and a second opinion), in subsection (2)(a), for “the Secretary of State” (in both places) substitute “ the regulatory authority ”.

VALID FROM 01/04/2009

- 3 In section 58 of the MHA (treatment requiring consent or a second opinion), in subsection (3)(a), for “the Secretary of State” substitute “ the regulatory authority ”.

VALID FROM 01/04/2009

- 4 (1) Section 61 of the MHA (review of treatment) is amended as follows.
- (2) For “the Secretary of State” (wherever occurring) substitute “ the regulatory authority ”.
- (3) In subsection (3), after “to him” insert “ (whether in England or Wales) ”.

VALID FROM 01/04/2009

- 5 In section 64H of the MHA (certificates: supplementary provision), in subsections (4) and (5), for “appropriate national authority” substitute “ regulatory authority ”.

VALID FROM 01/04/2009

- 6 (1) Section 118 of the MHA (code of practice) is amended as follows.
- (2) In subsection (2), for “appointed for the purposes of this section by the Secretary of State” substitute “ appointed for the purposes of this section by the regulatory authority ”.
- (3) After subsection (6) insert—
- “(7) The Care Quality Commission may at any time make proposals to the Secretary of State as to the content of the code of practice which the Secretary of State must prepare, and from time to time revise, under this section in relation to England.”

VALID FROM 01/04/2009

- 7 (1) Section 119 of the MHA (practitioners approved for Part 4 and section 118) is amended as follows.
- (2) In subsection (1)—

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- (a) for “The Secretary of State” substitute “ The regulatory authority ”,
 - (b) for “he” substitute “ it ”, and
 - (c) for “by him” substitute “ by the authority ”.
- (3) In subsection (2), omit “by the Secretary of State”.

VALID FROM 01/04/2009

8 For section 120 of the MHA substitute—

“120 General protection of relevant patients

- (1) The regulatory authority must keep under review and, where appropriate, investigate the exercise of the powers and the discharge of the duties conferred or imposed by this Act so far as relating to the detention of patients or their reception into guardianship or to relevant patients.
- (2) Relevant patients are—
 - (a) patients liable to be detained under this Act,
 - (b) community patients, and
 - (c) patients subject to guardianship.
- (3) The regulatory authority must make arrangements for persons authorised by it to visit and interview relevant patients in private—
 - (a) in the case of relevant patients detained under this Act, in the place where they are detained, and
 - (b) in the case of other relevant patients, in hospitals and regulated establishments and, if access is granted, other places.
- (4) The regulatory authority must also make arrangements for persons authorised by it to investigate any complaint as to the exercise of the powers or the discharge of the duties conferred or imposed by this Act in respect of a patient who is or has been detained under this Act or who is or has been a relevant patient.
- (5) The arrangements made under subsection (4)—
 - (a) may exclude matters from investigation in specified circumstances, and
 - (b) do not require any person exercising functions under the arrangements to undertake or continue with any investigation where the person does not consider it appropriate to do so.
- (6) Where any such complaint as is mentioned in subsection (4) is made by a Member of Parliament or a member of the National Assembly for Wales, the results of the investigation must be reported to the Member of Parliament or member of the Assembly.
- (7) For the purposes of a review or investigation under subsection (1) or the exercise of functions under arrangements made under this section, a person authorised by the regulatory authority may at any reasonable time—

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- (a) visit and interview in private any patient in a hospital or regulated establishment,
 - (b) if the authorised person is a registered medical practitioner or approved clinician, examine the patient in private there, and
 - (c) require the production of and inspect any records relating to the detention or treatment of any person who is or has been detained under this Act or who is or has been a community patient or a patient subject to guardianship.
- (8) The regulatory authority may make provision for the payment of remuneration, allowances, pensions or gratuities to or in respect of persons exercising functions in relation to any review or investigation for which it is responsible under subsection (1) or functions under arrangements made by it under this section.
- (9) In this section “regulated establishment” means—
- (a) an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000, or
 - (b) premises used for the carrying on of a regulated activity (within the meaning of Part 1 of the Health and Social Care Act 2008) in respect of which a person is registered under Chapter 2 of that Part.”

9 After section 120 of the MHA insert—

“120A Investigation reports

- (1) The regulatory authority may publish a report of a review or investigation carried out by it under section 120(1).
- (2) The Secretary of State may by regulations make provision as to the procedure to be followed in respect of the making of representations to the Care Quality Commission before the publication of a report by the Commission under subsection (1).
- (3) The Secretary of State must consult the Care Quality Commission before making any such regulations.
- (4) The Welsh Ministers may by regulations make provision as to the procedure to be followed in respect of the making of representations to them before the publication of a report by them under subsection (1).

120B Action statements

- (1) The regulatory authority may direct a person mentioned in subsection (2) to publish a statement as to the action the person proposes to take as a result of a review or investigation under section 120(1).
- (2) The persons are—
 - (a) the managers of a hospital within the meaning of Part 2 of this Act;
 - (b) a local social services authority;
 - (c) persons of any other description prescribed in regulations.

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- (3) Regulations may make further provision about the content and publication of statements under this section.
- (4) “Regulations” means regulations made—
 - (a) by the Secretary of State, in relation to England;
 - (b) by the Welsh Ministers, in relation to Wales.

120C Provision of information

- (1) This section applies to the following persons—
 - (a) the managers of a hospital within the meaning of Part 2 of this Act;
 - (b) a local social services authority;
 - (c) persons of any other description prescribed in regulations.
- (2) A person to whom this section applies must provide the regulatory authority with such information as the authority may reasonably request for or in connection with the exercise of its functions under section 120.
- (3) A person to whom this section applies must provide a person authorised under section 120 with such information as the person so authorised may reasonably request for or in connection with the exercise of functions under arrangements made under that section.
- (4) This section is in addition to the requirements of section 120(7)(c).
- (5) “Information” includes documents and records.
- (6) “Regulations” means regulations made—
 - (a) by the Secretary of State, in relation to England;
 - (b) by the Welsh Ministers, in relation to Wales.

120D Annual reports

- (1) The regulatory authority must publish an annual report on its activities in the exercise of its functions under this Act.
- (2) The report must be published as soon as possible after the end of each financial year.
- (3) The Care Quality Commission must send a copy of its annual report to the Secretary of State who must lay the copy before Parliament.
- (4) The Welsh Ministers must lay a copy of their annual report before the National Assembly for Wales.
- (5) In this section “financial year” means—
 - (a) the period beginning with the date on which section 52 of the Health and Social Care Act 2008 comes into force and ending with the next 31 March following that date, and
 - (b) each successive period of 12 months ending with 31 March.”

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Commencement Information

I3 Sch. 3 para. 9 partly in force; Sch. 3 para. 9 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/04/2009

10 In section 129 of the MHA (obstruction), in subsection (1), after paragraph (c) insert—
 “(ca) fails to comply with a request made under section 120C; or”.

VALID FROM 01/04/2009

11 (1) Section 134 of the MHA (correspondence of patients) is amended as follows.
 (2) In subsection (3), after paragraph (c) insert—
 “(ca) the Care Quality Commission;”.
 (3) In subsection (6), for “section 121(7) and (8) above” substitute “ section 134A(1) to (4) ”.
 (4) In subsection (9), after “this section” insert “ and section 134A ”.

12 After section 134 of the MHA insert—

“134A Review of decisions to withhold correspondence

- (1) The regulatory authority must review any decision to withhold a postal packet (or anything contained in it) under subsection (1)(b) or (2) of section 134 if an application for a review of the decision is made—
 - (a) in a case under subsection (1)(b) of that section, by the patient; or
 - (b) in a case under subsection (2) of that section, either by the patient or by the person by whom the postal packet was sent.
- (2) An application under subsection (1) must be made within 6 months of receipt by the applicant of the notice referred to in section 134(6).
- (3) On an application under subsection (1), the regulatory authority may direct that the postal packet (or anything contained in it) is not to be withheld.
- (4) The managers of the hospital concerned must comply with any such direction.
- (5) The Secretary of State may by regulations make provision in connection with the making to and determination by the Care Quality Commission of applications under subsection (1), including provision for the production to the Commission of any postal packet which is the subject of such an application.
- (6) The Welsh Ministers may by regulations make provision in connection with the making to them of applications under subsection (1), including provision for the production to them of any postal packet which is the subject of such an application.”

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Commencement Information

I4 Sch. 3 para. 12 partly in force; Sch. 3 para. 12 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/04/2009

13 In section 145 of the MHA (general interpretation), in subsection (1), insert at the appropriate place—

““the regulatory authority” means—

- (a) in relation to England, the Care Quality Commission;
- (b) in relation to Wales, the Welsh Ministers;”.

SCHEDULE 4

Section 66

INTERACTION WITH OTHER AUTHORITIES

VALID FROM 01/10/2008

PART 1

INTERPRETATION

Inspection authorities

- 1 (1) In this Schedule references to inspection authorities are to be read in accordance with sub-paragraph (2) or (3), as the case may be.
- (2) For the purposes of paragraph 5 or 6 the inspection authorities are—
- (a) Her Majesty's Chief Inspector of Prisons,
 - (b) Her Majesty's Chief Inspector of Constabulary,
 - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,
 - (d) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
 - (e) Her Majesty's Chief Inspector of Court Administration,
 - (f) Her Majesty's Chief Inspector of Education, Children's Services and Skills, and
 - (g) the Audit Commission for Local Authorities and the National Health Service in England.
- (3) For the purposes of paragraph 7 the inspection authorities are—
- (a) Her Majesty's Chief Inspector of Prisons,
 - (b) Her Majesty's Inspectors of Constabulary,
 - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,

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- (d) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
- (e) Her Majesty's Inspectorate of Court Administration,
- (f) Her Majesty's Chief Inspector of Education, Children's Services and Skills, and
- (g) the Audit Commission for Local Authorities and the National Health Service in England.

VALID FROM 01/04/2009

Inspection functions

- 2 In this Schedule “inspection functions” means functions relating to, or connected with, inspections carried out by the Commission under section 60.

Public authorities

- 3 (1) In this Schedule “public authority”—
- (a) includes any person certain of whose functions are functions of a public nature, but
 - (b) does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.
- (2) Subject to paragraph 9(3), references in this Schedule to a public authority do not include a public authority outside the United Kingdom.
- (3) In relation to a particular act, a person is not a public authority by virtue of sub-paragraph (1) if the nature of the act is private.

PART 2

EXERCISE OF FUNCTIONS

VALID FROM 01/04/2009

Delegation of inspection functions to public authorities

- 4 (1) The Commission may delegate any of its inspection functions (to such extent as it may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) it is nevertheless to be regarded for the purposes of any enactment as carried out by the Commission.

Inspection programmes and inspection frameworks

- 5 (1) The Commission must from time to time, or at such times as the Secretary of State may specify by order, prepare—

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- (a) a document setting out what inspections it proposes to carry out (an “inspection programme”), and
 - (b) a document setting out the manner in which it proposes to exercise its functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Commission must consult—
 - (a) the Secretary of State,
 - (b) the inspection authorities, and
 - (c) any other person or body specified by an order made by the Secretary of State,and it must send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (4) The Commission may determine that any document or combination of documents prepared for the purposes of any other enactment or enactments is to be treated as a document prepared for the purposes of sub-paragraph (1)(b) (so long as any requirements applying under or by virtue of this paragraph are complied with in relation to the document or documents concerned).
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the Commission from making visits without notice.

Commencement Information

I5 Sch. 4 para. 5 partly in force; Sch. 4 para. 5 in force for specified purposes at Royal Assent, see s. 170

Inspections by other inspectors of activities within Commission's remit

- 6 (1) If—
 - (a) a specified inspector is proposing to carry out an inspection that would involve inspecting a specified organisation, and
 - (b) the Commission considers that the proposed inspection would impose an unreasonable burden on the specified organisation, or would do so if carried out in a particular way,the Commission must, subject to sub-paragraph (6), give a notice to the specified inspector requiring the inspector not to carry out the proposed inspection, or not to carry it out in that way.
- (2) In this paragraph “specified inspector” means—
 - (a) an inspection authority, or
 - (b) any other person or body specified by order made by the Secretary of State.
- (3) In this paragraph “specified organisation” means a person or body specified by order made by the Secretary of State.
- (4) A person or body may be specified under sub-paragraph (3) in relation to particular functions or particular activities.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge by that person or body of any of the functions, or the carrying on by that person or body of any of the activities, in relation to which it is specified.
- (6) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (7) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice; but this is subject to sub-paragraph (8).
- (8) The Secretary of State, if satisfied that the proposed inspection—
- (a) would not impose an unreasonable burden on the specified organisation in question, or
 - (b) would not do so if carried out in a particular manner,
- may give consent to the inspection being carried out, or being carried out in that manner.
- (9) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
 - (b) provision prescribing the period within which notices are to be given;
 - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
 - (d) provision for revising or withdrawing notices;
 - (e) provision for setting aside notices not validly given.

Commencement Information

I6 Sch. 4 para. 6 partly in force; Sch. 4 para. 6 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/10/2008

Co-operation

- 7 The Commission must co-operate with—
- (a) the inspection authorities, and
 - (b) any other public authority specified by order made by the Secretary of State,
- where it is appropriate to do so for the efficient and effective exercise of the Commission's functions.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/10/2008

Joint action

- 8 (1) The Commission may act jointly with another public authority where it is appropriate to do so for the efficient and effective exercise of the Commission's functions.
- (2) Sub-paragraph (1) is without prejudice to any other power the Commission may have to act jointly with another public authority.

VALID FROM 01/04/2009

Advice or assistance for other public authorities

- 9 (1) The Commission may, if it thinks it appropriate to do so, provide advice or assistance to another public authority for the purpose of the exercise by that authority of that authority's functions.
- (2) Advice or assistance under this paragraph may be provided on such terms, including terms as to payment, as the Commission thinks fit.
- (3) In this paragraph the reference to another public authority includes a public authority in the Channel Islands or the Isle of Man.

VALID FROM 01/04/2009

Inspections carried out under arrangements

- 10 (1) The Commission may make arrangements with—
- (a) an inspection authority, or
 - (b) any other public authority specified by order made by the Secretary of State, to carry out, on behalf of the authority, inspections in England of any institution or matter which the Commission is not required or authorised to carry out by virtue of any other enactment.
- (2) Inspections under this paragraph may be carried out on such terms, including terms as to payment, as the Commission thinks fit.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 5

Section 95

FURTHER AMENDMENTS RELATING TO PART 1

PART 1

AMENDMENTS OF CARE STANDARDS ACT 2000

VALID FROM 01/04/2009

1 In this Part of this Schedule “the 2000 Act” means the Care Standards Act 2000 (c. 14).

2 (1) Section 1 of the 2000 Act (children's homes) is amended as follows.

(2) In subsection (4), after “establishment” insert “ in Wales ”.

(3) After that subsection insert—

“(4A) An establishment in England is not a children's home if it is—

(a) a hospital (within the meaning of the National Health Service Act 2006); or

(b) a residential family centre,

or if it is of a description excepted by regulations.”

Commencement Information

I7 Sch. 5 para. 2 partly in force; Sch. 5 para. 2 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/10/2010

3 In section 2 of the 2000 Act (independent hospitals etc), in subsection (1), after “this Act” insert “ as it applies in relation to Wales ”.

4 (1) Section 3 of the 2000 Act (care homes) is amended as follows.

(2) In subsection (3), after “establishment” insert “ in Wales ”.

(3) After that subsection insert—

“(4) And an establishment in England is not a care home if it is—

(a) a hospital (within the meaning of the National Health Service Act 2006); or

(b) a children's home,

or if it is of a description excepted by regulations.”

Commencement Information

I8 Sch. 5 para. 4 partly in force; Sch. 5 para. 4 in force for specified purposes at Royal Assent, see s. 170

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/10/2010

- 5 (1) Section 4 of the 2000 Act (other basic definitions) is amended as follows.
- (2) In subsection (8), for paragraph (a) substitute—
- “(a) any reference to a description of establishment is a reference to—
- (i) a children's home,
 - (ii) a children's home providing accommodation for the purpose of restricting liberty,
 - (iii) an independent hospital in Wales,
 - (iv) an independent hospital in Wales in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983,
 - (v) an independent clinic in Wales,
 - (vi) a care home in Wales, or
 - (vii) a residential family centre;”.

(3) For subsection (9) substitute—

“(9) Below in this Act—

 - (a) any reference to a description of agency is a reference to—
 - (i) an independent medical agency in Wales or, where the activities of an independent medical agency are carried on from two or more branches, a branch in Wales of an independent medical agency,
 - (ii) a domiciliary care agency in Wales or, where the activities of a domiciliary care agency are carried on from two or more branches, a branch in Wales of a domiciliary care agency,
 - (iii) a nurses agency in Wales or, where the activities of a nurses agency are carried on from two or more branches, a branch in Wales of a nurses agency,
 - (iv) a fostering agency or, where the activities of a fostering agency are carried on from two or more branches, a branch of a fostering agency,
 - (v) a voluntary adoption agency, or
 - (vi) an adoption support agency or, where the activities of an adoption support agency are carried on from two or more branches, a branch of an adoption support agency;
 - (b) a reference to any agency is a reference to an agency or branch of any of those descriptions.”

VALID FROM 01/10/2010

- 6 (1) Section 5 of the 2000 Act (registration authorities) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (a) substitute—

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	<p style="text-align: center;">“(a) the registration authority in the case of establishments and agencies mentioned in subsection (1A) is Her Majesty's Chief Inspector of Education, Children's Services and Skills (referred to in this Act as “the CIECSS”);”, and</p> <p style="text-align: center;">(b) in paragraph (b) for “in relation to Wales” substitute “ in any other case ”.</p> <p>(3) After subsection (1) insert—</p> <p style="padding-left: 2em;">“(1A) The establishments and agencies are—</p> <ul style="list-style-type: none"> (a) children's homes in England, (b) residential family centres in England, (c) fostering agencies in England or, where the activities of a fostering agency are carried on from two or more branches, the branches in England, (d) voluntary adoption agencies whose principal office is in England, and (e) adoption support agencies in England or, where the activities of an adoption support agency are carried on from two or more branches, the branches in England.”
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VALID FROM 01/04/2009

7	Omit section 5A (general duties of Commission for Healthcare Audit and Inspection) and section 5B (general duties of Commission for Social Care Inspection) of the 2000 Act.
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VALID FROM 01/04/2009

8	<p>(1) Section 8 of the 2000 Act (general functions of the Welsh Ministers) is amended as follows.</p> <p>(2) For subsection (3A) substitute—</p> <p style="padding-left: 2em;">“(3A) But the functions which may be so specified do not include functions of making, confirming or approving subordinate legislation (as defined by section 158(1) of the Government of Wales Act 2006).”</p> <p>(3) In subsection (6)(b)(i), for “the CSCI” substitute “ the Care Quality Commission ”.</p> <p>(4) In subsection (7), omit the words from “, other than” to the end.</p>
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VALID FROM 01/04/2009

9	In section 10 of the 2000 Act (inquiries), omit subsection (6).
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VALID FROM 01/10/2010

10	<p>In section 11 of the 2000 Act (requirement to register)—</p> <ul style="list-style-type: none"> (a) omit subsection (2),
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Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in subsection (3), for “subsections (1) and (2)” substitute “ subsection (1)”, and
- (c) in subsection (4), omit “the CHAI, the CSCI or”.

VALID FROM 02/11/2009

- 11 In section 12 of the 2000 Act (applications for registration), in subsection (2), for the words from “the amount determined” to the end substitute “ the prescribed amount ”.

VALID FROM 01/10/2010

- 12 In section 14 of the 2000 Act (cancellation of registration), in subsection (2), after paragraph (e) insert—
- “(f) an offence under Part 1 of the Health and Social Care Act 2008 or regulations made under that Part.”

VALID FROM 01/04/2009

- 13 After section 14 of the 2000 Act insert—
- “14A Suspension of registration**
- (1) The Welsh Ministers may at any time suspend for a specified period the registration of a person in respect of an establishment or agency for which the Welsh Ministers are the registration authority.
 - (2) Except where the Welsh Ministers give notice under section 20B, the power conferred by subsection (1) is exercisable only on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements.
 - (3) The suspension of a person's registration does not affect the continuation of the registration (but see sections 24A and 26 as to offences).
 - (4) A period of suspension may be extended under subsection (1) on one or more occasions.
 - (5) Reference in this Part to the suspension of a person's registration is to suspension under this section, and related expressions are to be read accordingly.
 - (6) In this section “relevant requirements” has the same meaning as in section 14.”

VALID FROM 01/04/2009

- 14 In section 15 of the 2000 Act (applications by registered persons)—
- (a) in subsection (1), at the end of paragraph (b) insert “; or

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) for the cancellation of, or the variation of the period of, any suspension of the registration.”,
- (b) in subsection (3)—
 - (i) after “(a)” insert “ or (c) ”, and
 - (ii) for the words from “a fee of—” to the end substitute “ a fee of the prescribed amount ”,
- (c) after subsection (4) insert—
 - “(4A) If the Welsh Ministers decide to grant an application under subsection (1)(c), they must serve notice in writing of their decision on the applicant (stating, where applicable, the period as varied).”, and
- (d) for subsection (5) substitute—
 - “(5) If different amounts are prescribed under subsection (3), the regulations may provide for the appropriate Minister to determine which amount is payable in a particular case.”

Commencement Information

I9 Sch. 5 para. 14(a)(b)(i)(c) in force at 1.4.2009 by S.I. 2009/462, art. 2(1), **Sch. 1 para. 35(f)**

VALID FROM 02/11/2009

- 15 In section 16 of the 2000 Act (regulations about registration), in subsection (3), for the words from “an annual fee—” to the end substitute “ an annual fee of the prescribed amount ”.

VALID FROM 01/04/2009

- 16 In section 17 of the 2000 Act (notice of proposals)—
- (a) in subsection (4), after “section 20” insert “ or 20A or gives notice under section 20B ”,
 - (b) after paragraph (a) of that subsection insert—
 - “(aa) to suspend the registration or extend a period of suspension;”, and
 - (c) in subsection (5), after “(a)” insert “ or (c) ”.

Commencement Information

I10 Sch. 5 para. 16(b)(c) in force at 1.4.2009 by S.I. 2009/462, art. 2(1), **Sch. 1 para. 35(g)**

VALID FROM 01/04/2009

- 17 In section 19 of the 2000 Act (notice of decisions), in subsection (4)—
- (a) omit the word “and” at the end of paragraph (b), and

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) after that paragraph insert—

“(ba) in the case of a decision to adopt a proposal under section 17(4)(aa), state the period (or extended period) of suspension; and”.

VALID FROM 01/10/2010

18 (1) Section 20 of the 2000 Act (urgent procedure for cancellation etc) is amended as follows.

(2) In subsection (1)—

(a) after “If” insert “ in respect of an establishment or agency for which the CIECSS is the registration authority ”,

(b) in paragraph (a), for “the registration authority” substitute “ the CIECSS ”, and

(c) in sub-paragraph (i) of that paragraph, for “an” substitute “ the ”.

(3) In subsection (3), for “the registration authority” substitute “ the CIECSS ”.

(4) In subsection (5), for “the registration authority” substitute “ the CIECSS ”.

(5) For subsection (6) substitute—

“(6) For the purposes of this section the appropriate authorities are—

(a) the local authority in whose area the establishment or agency is situated; and

(b) any other statutory authority whom the CIECSS thinks it appropriate to notify.”

(6) Accordingly, for the heading of section 20 substitute “ Urgent procedure for cancellation, variation etc: England ”

VALID FROM 01/10/2010

19 After section 20 of the 2000 Act insert—

“20A Urgent procedure for cancellation: Wales

(1) If in respect of an establishment or agency for which the Welsh Ministers are the registration authority—

(a) the Welsh Ministers apply to a justice of the peace for an order cancelling the registration of a person in respect of the establishment or agency, and

(b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,

the justice may make the order, and the cancellation has effect from the time when the order is made.

(2) An application under subsection (1) may, if the justice thinks fit, be made without notice.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) As soon as practicable after the making of an application under this section, the Welsh Ministers must notify the appropriate authorities of the making of the application.
- (4) An order under subsection (1) is to be in writing.
- (5) Where such an order is made, the Welsh Ministers must, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—
 - (a) a copy of the order, and
 - (b) notice of the right of appeal conferred by section 21.
- (6) For the purposes of this section the appropriate authorities are—
 - (a) the local authority in whose area the establishment or agency is situated,
 - (b) the Local Health Board in whose area the establishment or agency is situated, and
 - (c) any statutory authority not falling within paragraph (a) or (b) whom the Welsh Ministers think it appropriate to notify.
- (7) In this section “statutory authority” has the same meaning as in section 20.

20B Urgent procedure for suspension or variation etc: Wales

- (1) Subsection (2) applies where—
 - (a) a person is registered under this Part in respect of an establishment or agency for which the Welsh Ministers are the registration authority, and
 - (b) the Welsh Ministers have reasonable cause to believe that unless they act under this section any person will or may be exposed to the risk of harm.
- (2) Where this subsection applies, the Welsh Ministers may, by giving notice in writing under this section to the person registered in respect of the establishment or agency, provide for any decision of the Welsh Ministers that is mentioned in subsection (3) to take effect from the time when the notice is given.
- (3) Those decisions are—
 - (a) a decision under section 13(5) to vary or remove a condition for the time being in force in relation to the registration or to impose an additional condition;
 - (b) a decision under section 14A to suspend the registration or extend the period of suspension.
- (4) The notice must—
 - (a) state that it is given under this section,
 - (b) state the Welsh Ministers' reasons for believing that the circumstances fall within subsection (1)(b),
 - (c) specify the condition as varied, removed or imposed or the period (or extended period) of suspension, and
 - (d) explain the right of appeal conferred by section 21.”

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/04/2009

- 20 (1) Section 21 of the 2000 Act (appeals to the Tribunal) is amended as follows.
- (2) In subsection (1)(b), after “20” insert “ or 20A ”.
- (3) In subsection (3), after “authority” insert “, other than a decision to which a notice under section 20B relates, ”.
- (4) After subsection (4) insert—
- “(4ZA) On an appeal against a decision to which a notice under section 20B relates, the Tribunal may confirm the decision or direct that it shall cease to have effect.”
- (5) In subsection (5)—
- (a) omit the word “or” at the end of paragraph (b), and
- (b) after paragraph (c) insert “; or
- (d) to vary the period of any suspension.”
- (6) After subsection (5) insert—
- “(6) Subsection (1) does not apply to a decision of the Welsh Ministers under section 30ZA (penalty notices).”

VALID FROM 01/10/2010

- 21 In section 22 of the 2000 Act (regulation of establishments and agencies), in subsection (7)(i), for the words from “a fee of—” to the end substitute “ a fee of the prescribed amount; ”.

VALID FROM 01/04/2009

- 22 After section 24 of the 2000 Act insert—
- “24A Offences relating to suspension**
- (1) If a person who is registered under this Part in respect of an establishment or agency carries on or (as the case may be) manages the establishment or agency while the person's registration is suspended, the person is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

VALID FROM 01/04/2009

- 23 In section 26 of the 2000 Act (false descriptions of establishments and agencies), after subsection (1) insert—

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(1A) If a person's registration under this Part has been suspended, the registration is to be treated for the purposes of subsection (1) as if it had not been effected.”

VALID FROM 01/04/2009

24	<p>In section 29 of the 2000 Act (proceedings for offences)—</p> <p>(a) for subsection (1) substitute—</p> <p style="padding-left: 40px;">“(1) Proceedings in respect of an offence under this Part or regulations made under it shall not, without the written consent of the Attorney General, be taken by any person other than the CIECSS or the Welsh Ministers.”,</p> <p>(b) in subsection (2), for “a period of six months” substitute “ the permitted period ”, and</p> <p>(c) after subsection (2) insert—</p> <p style="padding-left: 40px;">“(3) “The permitted period” means—</p> <p style="padding-left: 80px;">(a) in the case of proceedings brought by the Welsh Ministers, a period of 12 months;</p> <p style="padding-left: 80px;">(b) in any other case, a period of 6 months.”</p>
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25 After section 30 of the 2000 Act insert—

“Penalty notices

30ZA Penalty notices

- (1) Where the Welsh Ministers are satisfied that a person has committed a fixed penalty offence, they may give the person a penalty notice in respect of the offence.
- (2) A fixed penalty offence is any relevant offence which—
 - (a) relates to an establishment or agency for which the Welsh Ministers are the registration authority, and
 - (b) is prescribed for the purposes of this section.
- (3) A relevant offence is—
 - (a) an offence under this Part or under regulations made under this Part, or
 - (b) an offence under regulations made under section 9 of the Adoption and Children Act 2002.
- (4) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence to which the notice relates by payment of a penalty in accordance with the notice.
- (5) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) Where a person is given a penalty notice, the person cannot be convicted of the offence to which the notice relates if the person pays the penalty in accordance with the notice.
- (7) Penalties under this section are payable to the Welsh Ministers.
- (8) In this section “prescribed” means prescribed by regulations made by the Welsh Ministers.

30ZB Penalty notices: supplementary provision

- (1) The Welsh Ministers may by regulations make—
 - (a) provision as to the form and content of penalty notices,
 - (b) provision as to the monetary amount of the penalty and the time by which it is to be paid,
 - (c) provision determining the methods by which penalties may be paid,
 - (d) provision as to the records to be kept in relation to penalty notices,
 - (e) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—
 - (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
 - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates,
 - (f) provision for a certificate—
 - (i) purporting to be signed by or on behalf of a prescribed person, and
 - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,to be received in evidence of the matters so stated,
 - (g) provision as to action to be taken if a penalty is not paid in accordance with a penalty notice, and
 - (h) such other provision in relation to penalties or penalty notices as the Welsh Ministers think necessary or expedient.
- (2) Regulations under subsection (1)(b)—
 - (a) may make provision for penalties of different amounts to be payable in different cases, including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid, but
 - (b) must secure that the amount of any penalty payable in respect of any offence does not exceed one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction.
- (3) In this section—
 - “penalty” means a penalty under a penalty notice;
 - “penalty notice” has the meaning given by section 30ZA(4).”

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

III Sch. 5 para. 25 partly in force; Sch. 5 para. 25 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/10/2010

- 26 (1) In section 30A of the 2000 Act (notification of matters relating to persons carrying on or managing certain establishments or agencies), inserted by the Children and Young Persons Act 2008, subsection (2) is amended as follows.
- (2) After paragraph (a) insert—
- “(aa) has decided to adopt a proposal under section 17(4)(aa) to suspend the registration of P in respect of the establishment or agency or to extend any such suspension,
- (ab) has given a notice under section 20B to suspend the registration of P in respect of the establishment or agency or to extend any such suspension.”.
- (3) Omit the word “or” at the end of paragraph (b).
- (4) At the end of paragraph (c) insert “or
- (d) has given P a penalty notice under section 30ZA in respect of an offence which it alleges P committed in relation to the establishment or agency and P has paid the penalty in accordance with the notice.”.

VALID FROM 01/10/2010

- 27 In section 31 of the 2000 Act (inspections by persons authorised by registration authority), in subsection (7), for the words from “require” to “the CIECSS” substitute “ require the CIECSS ”.

VALID FROM 01/10/2010

- 28 (1) Section 42 of the 2000 Act (power to extend the application of Part 2) is amended as follows.
- (2) In subsection (1), after “(2)” insert “, (2A) ”.
- (3) For subsection (2) substitute—
- “(2) This subsection applies to—
- (a) Welsh local authorities providing services in the exercise of their social services functions, and
- (b) persons who provide services which are similar to services which—
- (i) may or must be so provided by Welsh local authorities, or
- (ii) may or must be provided by Welsh NHS bodies.
- (2A) This subsection applies to—

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) English local authorities providing services in the exercise of their social services functions so far as relating to persons aged under 18, and
- (b) persons who provide services which are similar to services which may or must be so provided by English local authorities.”

(4) In subsection (4), after “(2)” insert “ or (2A) ”.

(5) Omit subsection (5).

(6) After subsection (5) insert—

“(6) For the purposes of this section, functions mentioned in section 135(1)(e) of the Education and Inspections Act 2006 are taken to be social services functions relating to persons aged under 18.

(7) In this section—

“cross-border Special Health Authorities” means Special Health Authorities not performing functions only or mainly in respect of England or only or mainly in respect of Wales,

“English local authorities” means local authorities in England,

“Welsh local authorities” means local authorities in Wales, and

“Welsh NHS bodies” means—

- (a) Local Health Boards,
- (b) National Health Service trusts all or most of whose hospitals, establishments and facilities are situated in Wales,
- (c) Special Health Authorities performing functions only or mainly in respect of Wales, and
- (d) cross-border Special Health Authorities but only so far as their functions are performed in respect of Wales.”

VALID FROM 01/04/2009

29 (1) Section 55 of the 2000 Act (interpretation of Part 4) is amended as follows.

(2) In subsection (2)(c), for “an establishment, or an agency, of a description” substitute “ a home, centre or agency of a kind ”.

(3) In subsection (3)—

- (a) in paragraph (e) omit “the CSCI,”, and
- (b) after that paragraph insert—

“(ea) staff of the Care Quality Commission who inspect premises under Part 1 of the Health and Social Care Act 2008 used for or in connection with the provision of social care (within the meaning of that Part) or who are responsible for persons who do so;”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/04/2009

30 In section 113 of the 2000 Act (default powers of appropriate Minister) omit subsection (1A).

VALID FROM 01/10/2010

31 Omit section 113A of the 2000 Act (fees payable under Part 2).

VALID FROM 01/04/2009

32 After section 118 of the 2000 Act insert—

“118A Regulations: Wales

- (1) This section has effect where a power to make regulations under this Act is conferred on the Welsh Ministers other than by or by virtue of the Government of Wales Act 2006.
- (2) Subsections (1) and (5) to (7) of section 118 apply to the exercise of that power as they apply to the exercise of a power conferred on the Welsh Ministers by or by virtue of that Act.
- (3) A statutory instrument containing regulations made in the exercise of that power is subject to annulment in pursuance of a resolution of the Assembly.”

VALID FROM 01/04/2009

33 In section 120 of the 2000 Act (Wales) omit subsection (1).

VALID FROM 01/04/2009

34 In section 121 of the 2000 Act (general interpretation etc), in the Table in subsection (13), omit the entries for the expressions “CHAI” and “CSCI”.

VALID FROM 01/04/2009

PART 2

AMENDMENTS OF HEALTH AND SOCIAL CARE
 (COMMUNITY HEALTH AND STANDARDS) ACT 2003

35 In this Part of this Schedule “the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

36 Omit sections 41 to 44 of the 2003 Act (regulatory bodies).

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/04/2010

37 In section 45 of the 2003 Act (quality in health care), in subsection (1), after “each” insert “ Welsh ”.

VALID FROM 01/04/2010

38 Omit section 46 of the 2003 Act (standards set by Secretary of State).

39 Omit sections 47A to 47C of the 2003 Act (code of practice relating to health care associated infections).

40 Omit sections 48 to 69A of the 2003 Act (NHS health care: functions of CHAI).

41 Omit sections 76 to 91 of the 2003 Act (social services: functions of CSCI).

42 In section 96 of the 2003 Act (additional functions of Welsh Ministers), in subsection (2), for paragraph (a) substitute—

“(a) functions of the Care Quality Commission under Part 1 of the Health and Social Care Act 2008, and”.

43 In section 100 of the 2003 Act (power of Welsh Ministers to require information), in subsection (2)(c), for “NHS body” substitute “ Welsh NHS body or cross-border SHA ”.

44 Omit sections 102 to 104 of the 2003 Act (functions of CHAI and CSCI under Care Standards Act).

45 In section 113 of the 2003 Act (complaints about health care), in subsection (3), omit paragraph (b).

46 In section 114 of the 2003 Act (complaints about social services), in subsection (2), omit paragraph (b).

47 Omit sections 120 to 141 of the 2003 Act (supplementary provision about CHAI and CSCI).

48 For section 143 of the 2003 Act substitute—

“143 Use by Welsh Ministers of information

(1) The Welsh Ministers may use any information they obtain, or documents produced to them, in the course of exercising any function of the Welsh Ministers referred to in any paragraph of subsection (2) for the purposes of any function of the Welsh Ministers referred to in any other paragraph of that subsection.

(2) The functions of the Welsh Ministers referred to in subsection (1) are—

- (a) their functions under Chapter 4 of this Part;
- (b) their functions under Chapter 6 of this Part;
- (c) their functions exercisable by virtue of section 5(1)(b) or 8(1) to (3) of the Care Standards Act 2000;
- (d) their functions under section 80 of the Children Act 1989;
- (e) their functions under the Mental Health Act 1983 in their capacity as the regulatory authority (within the meaning of that Act);

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	(f) any functions exercisable by them by virtue of paragraph 163(1) of Schedule A1 to the Mental Capacity Act 2005.
	(3) References to functions in subsection (2) do not include functions of making regulations.”
49	Omit section 144 of the 2003 Act (inquiries: Wales).
50	Omit sections 145 and 145A of the 2003 Act (CHAI duties to co-operate).
51	In section 148 of the 2003 Act (interpretation of Part 2), omit the following definitions—
	(a) “the CHAI”,
	(b) “the CSCI”,
	(c) “financial year”, and
	(d) “Minister of the Crown”.
52	Omit Schedules 6 to 8 to the 2003 Act (supplementary provision about CHAI and CSCI).

VALID FROM 01/10/2008

PART 3

AMENDMENTS OF OTHER ACTS

VALID FROM 01/04/2009

Prison Act 1952 (c. 52)

- 53 (1) Schedule A1 to the Prison Act 1952 (further provision about Her Majesty's Chief Inspector of Prisons) is amended as follows.
- (2) In paragraph 2(2)—
- (a) omit paragraph (f), and
- (b) for paragraph (g) substitute—
- “(g) the Care Quality Commission,”.
- (3) In paragraph 3(2)—
- (a) omit paragraph (c), and
- (b) for paragraph (d) substitute—
- “(d) the Care Quality Commission;”.

Public Records Act 1958 (c. 51)

- 54 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3—
- (a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) at the appropriate place insert— “ the Care Quality Commission. ”

VALID FROM 01/04/2009

Public Bodies (Admission to Meetings) Act 1960 (c. 67)

- 55 In paragraph 1 of the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies in England and Wales to which the Act applies)—
- (a) omit paragraphs (bg) and (bh), and
 - (b) after paragraph (bh) insert—
“(bj) the Care Quality Commission;”.

Parliamentary Commissioner Act 1967 (c. 13)

- 56 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation)—
- (a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and
 - (b) at the appropriate place insert— “ Care Quality Commission. ”

House of Commons Disqualification Act 1975 (c. 24)

- 57 (1) Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualified for membership) is amended as follows.
- (2) In Part 2 (bodies of which all members are disqualified)—
- (a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and
 - (b) at the appropriate place insert— “ The Care Quality Commission. ”
- (3) In Part 3 (other disqualifying offices), omit the entry for members of the Mental Health Act Commission in receipt of remuneration.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 58 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified)—
- (a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and
 - (b) at the appropriate place insert— “ The Care Quality Commission. ”

Race Relations Act 1976 (c. 74)

- 59 (1) Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty) is amended as follows.
- (2) In Part 2 (bodies and other persons added after commencement of duty)—
- (a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) at the appropriate place under the heading “Health” insert— “ The Care Quality Commission. ”

(3) In Part 4 (bodies and other persons added on 31 December 2004), omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection.

VALID FROM 01/04/2009

Copyright, Designs and Patents Act 1988 (c. 48)

60 In section 48(6) of the Copyright, Designs and Patents Act 1988 (“the Crown” includes certain bodies with health-related functions), for “the Commission for Social Care Inspection, the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.

VALID FROM 01/04/2009

Road Traffic Act 1988 (c. 52)

61 In section 144 of the Road Traffic Act 1988 (exceptions from requirement of third-party insurance or security), in subsection (2)—

- (a) in paragraph (da) for the words from “, by a Local Health Board” to “Inspection” substitute “ or by a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 ”, and
- (b) in paragraph (g) for “the Commission for Social Care Inspection” substitute “ the Care Quality Commission ”.

VALID FROM 01/04/2009

Vehicle Excise and Registration Act 1994 (c. 22)

62 In paragraph 7 of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt health service vehicles)—

- (a) omit paragraph (c) (together with the word “or” at the end of it), and
- (b) for paragraph (f) substitute—
“ (f) the Care Quality Commission. ”

VALID FROM 01/04/2009

Police Act 1996 (c. 16)

63 (1) Schedule 4A to the Police Act 1996 (further provision about Her Majesty's Inspectors of Constabulary) is amended as follows.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In paragraph 2(2)—
 - (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
 - “(g) the Care Quality Commission,”.
- (3) In paragraph 3(2), for paragraph (d) substitute—
 - “(d) the Care Quality Commission;”.
- (4) In paragraph 4—
 - (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
 - “(g) the Care Quality Commission,”.

VALID FROM 01/04/2009

Audit Commission Act 1998 (c. 18)

- 64 (1) Section 4 of the Audit Commission Act 1998 (code of audit practice) is amended as follows.
 - (2) In subsection (7)—
 - (a) in paragraph (a) omit “the Commission for Healthcare Audit and Inspection and”,
 - (b) in paragraph (b) omit “the Commission for Social Care Inspection and”, and
 - (c) in paragraph (c) before “and such bodies” insert “ , the Care Quality Commission ”.
 - (3) In subsection (8), for “the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.
- 65 (1) Section 7 of the Audit Commission Act 1998 (fees) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (a) for “the Commission for Healthcare Audit and Inspection and such other” substitute “ such ”, and
 - (b) in paragraph (c) before “such bodies” insert “ the Care Quality Commission and ”.
 - (3) In subsection (9) for paragraph (aa) substitute—
 - “(aa) the Care Quality Commission,”.
- 66 (1) In section 33 of the Audit Commission Act 1998 (studies for improving economy etc in services), subsection (6) is amended as follows.
 - (2) In paragraph (c), for “the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.
 - (3) For paragraph (d) substitute—
 - “(d) in the case of a study which has a connection with adult social services (within the meaning of Part 1 of the Health and Social Care Act 2008), also consult the Care Quality Commission; and”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 67 (4) In paragraph (e) for “that Part of that Act” substitute “ Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 ”.
- (1) In section 34 of the Audit Commission Act 1998 (reports on impact of statutory provisions), subsection (6) is amended as follows.
- (2) For paragraph (ba) substitute—
- “(ba) in the case of a study which has a connection with adult social services (within the meaning of Part 1 of the Health and Social Care Act 2008), the Care Quality Commission;”.
- (3) In paragraph (bb) for “that Part of that Act” substitute “ Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 ”.
- 68 (1) In section 49 of the Audit Commission Act 1998 (disclosure), subsection (1) is amended as follows.
- (2) Omit paragraph (ba).
- (3) In paragraph (bb), for “that Part of that Act” substitute “ Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 ”.
- (4) In paragraph (c) omit the words from “or for the purposes of the functions of the Commission” to the end.
- (5) After paragraph (ca) insert—
- “(cb) for the purposes of the functions of the Care Quality Commission under Part 1 of the Health and Social Care Act 2008;”.
- 69 In Schedule 2A to the Audit Commission Act 1998 (interaction with other authorities), in paragraph 1(1)—
- (a) at the end of paragraph (f) insert the word “ or ”,
- (b) omit paragraph (g) (together with the word “or” at the end of it), and
- (c) for paragraph (h) substitute—
- “(h) the Care Quality Commission.”

VALID FROM 01/04/2009

Local Government Act 1999 (c. 27)

- 70 In section 25 of the Local Government Act 1999 (co-ordination of inspections etc.), in subsection (2)(e), for “Commission for Social Care Inspection” substitute “ Care Quality Commission ”.

VALID FROM 01/04/2009

Crown Prosecution Service Inspectorate Act 2000 (c. 10)

- 71 (1) The Schedule to the Crown Prosecution Service Inspectorate Act 2000 (further provision about Her Majesty's Chief Inspector of the Crown Prosecution Service) is amended as follows.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In paragraph 2(2)—
- (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
“(g) the Care Quality Commission.”

- (3) In paragraph 4—
- (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
“(g) the Care Quality Commission.”

VALID FROM 01/04/2009

Regulation of Investigatory Powers Act 2000 (c. 23)

- 72 In Schedule 1 to the Regulation of Investigatory Powers Act 2000 (surveillance authorisation: relevant authorities), for paragraph 20F substitute—

“20F The Care Quality Commission.”

Freedom of Information Act 2000 (c. 36)

- 73 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 6 (other public bodies and offices: general)—
- (a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and
 - (b) at the appropriate place insert— “The Care Quality Commission.”

VALID FROM 01/04/2009

Criminal Justice and Court Services Act 2000 (c. 43)

- 74 (1) Schedule 1A to the Criminal Justice and Court Services Act 2000 (further provision about the Inspectorate) is amended as follows.

- (2) In paragraph 2(2)—
- (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
“(g) the Care Quality Commission.”

- (3) In paragraph 3(2)—
- (a) omit paragraph (c), and
 - (b) for paragraph (d) substitute—
“(d) the Care Quality Commission;”

- (4) In paragraph 4—
- (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(g) the Care Quality Commission,”.

VALID FROM 01/04/2009

Courts Act 2003 (c. 39)

- 75 (1) Schedule 3A to the Courts Act 2003 (further provision about the Inspectors of Court Administration) is amended as follows.
- (2) In paragraph 2(2)—
- (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
“ (g) the Care Quality Commission,”.
- (3) In paragraph 4—
- (a) omit paragraph (f), and
 - (b) for paragraph (g) substitute—
“ (g) the Care Quality Commission,”.

VALID FROM 01/04/2009

Public Audit (Wales) Act 2004 (c. 23)

- 76 In section 62 of the Public Audit (Wales) Act 2004 (co-operation), for paragraph (c) substitute—
“(c) the Care Quality Commission,”.
- 77 In section 64 of the Public Audit (Wales) Act 2004 (provision of information by CHAI)—
- (a) in subsection (1), for “The Commission for Healthcare Audit and Inspection” substitute “ The Care Quality Commission ”,
 - (b) in subsection (2), for the words from “section 136” to the end substitute “ section 76 of the Health and Social Care Act 2008 (disclosure of confidential personal information: offence). ”, and
 - (c) for subsection (3) substitute—
“(3) In this section—
“English NHS body” has the meaning given by subsection (1) of section 97 of that Act; and
“cross-border SHA” means a cross-border Special Health Authority as defined by that subsection.”

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/04/2009

Children Act 2004 (c. 31)

- 78 In section 20 of the Children Act 2004 (joint area reviews), in subsection (4), for paragraph (d) substitute—
“(d) the Care Quality Commission;”.

Health Act 2006 (c. 28)

VALID FROM 01/04/2009

- 79 In section 61 of the Health Act 2006 (Commission to exercise Welsh Ministers' appointment functions), omit “the Commission for Healthcare Audit and Inspection or”.

- 80 In Schedule 5 to the Health Act 2006 (list of statutory bodies referred to in section 58(3))—
(a) omit the entry for the Commission for Healthcare Audit and Inspection and the entry for the Commission for Social Care Inspection, and
(b) at the appropriate place insert— “ The Care Quality Commission. ”

VALID FROM 01/04/2009

Education and Inspections Act 2006 (c. 40)

- 81 (1) Paragraph 1 of Schedule 13 to the Education and Inspections Act 2006 (interaction with other authorities) is amended as follows.
(2) In sub-paragraph (2)—
(a) omit paragraph (f), and
(b) for paragraph (g) substitute—
“(g) the Care Quality Commission, and”.
(3) In sub-paragraph (3)(f), for “(2)(f) to (h)” substitute “ (2)(g) and (h) ”.

VALID FROM 01/04/2009

National Health Service Act 2006 (c. 41)

- 82 In section 9 of the National Health Service Act 2006 (NHS contracts), in subsection (4), for paragraph (k) substitute—
“(k) the Care Quality Commission;”.
- 83 In section 35 of the National Health Service Act 2006 (authorisation of NHS foundation trusts), in subsection (3)(a), for “the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 84 In section 56 of the National Health Service Act 2006 (mergers), in subsection (6)(a), for “the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.
- 85 In section 71 of the National Health Service Act 2006 (schemes for meeting losses and liabilities etc of certain health service bodies), in subsection (2) (f), for “the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.
- 86 In Schedule 10 to the National Health Service Act 2006 (audit of accounts of NHS foundation trusts), in paragraph 8(1)(e), for the words from “the Commission” to the end substitute “the Care Quality Commission”.

VALID FROM 01/04/2009

National Health Service (Wales) Act 2006 (c. 42)

- 87 In section 7 of the National Health Service (Wales) Act 2006 (NHS contracts), in subsection (4), for paragraph (k) substitute—
 “(k) the Care Quality Commission.”
- 88 In section 30 of the National Health Service (Wales) Act 2006 (schemes for meeting losses and liabilities etc of certain health service bodies), in subsection (2)—
 (a) at the end of paragraph (c) insert “ and ”, and
 (b) omit paragraph (d) (together with the word “and” at the end of it).

VALID FROM 01/04/2009

NHS Redress Act 2006 (c. 44)

- 89 In section 5 of the NHS Redress Act 2006 (duty to consider potential application of scheme), in subsection (2), for paragraph (b) substitute—
 “(b) the Care Quality Commission.”
- 90 In section 13 of the NHS Redress Act 2006 (duties of co-operation), in subsection (1), for “the Commission for Healthcare Audit and Inspection” substitute “ the Care Quality Commission ”.

VALID FROM 01/04/2009

Safeguarding Vulnerable Groups Act 2006 (c. 47)

- 91 In section 45 of the Safeguarding Vulnerable Groups Act 2006 (supervisory authorities: duty to refer), in subsection (7)—
 (a) for paragraph (c) substitute—
 “(c) the Care Quality Commission in respect of its functions under Part 1 of the Health and Social Care Act 2008;”

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) omit paragraph (d), and
(c) in paragraph (e), for “that Act” substitute “ the Health and Social Care (Community Health and Standards) Act 2003 ”.
- 92 (1) Paragraph 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (regulated activity relating to children) is amended as follows.
- (2) In sub-paragraph (10)—
(a) for paragraph (e) substitute—
“ (e) the Care Quality Commission;”, and
(b) omit paragraph (f).
- (3) In sub-paragraph (11), omit paragraph (a).
- (4) After sub-paragraph (13) insert—
“(13A) The exercise of a function of the Care Quality Commission so far as the function relates to the inspection of anything which—
(a) is listed in section 60(1) of the Health and Social Care Act 2008, and
(b) involves the provision of any form of treatment or therapy for children,
is a regulated activity relating to children.”
- (5) In sub-paragraph (14), for “or (11)” substitute “ , (11) or (13A) ”.
- 93 (1) Paragraph 7 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (regulated activity relating to vulnerable adults) is amended as follows.
- (2) In sub-paragraph (6), omit paragraphs (a) and (b).
- (3) After sub-paragraph (8) insert—
“(8A) The exercise of a function of the Care Quality Commission so far as the function relates to the inspection of anything which—
(a) is listed in section 60(1) of the Health and Social Care Act 2008, and
(b) involves the provision of social services, care, treatment or therapy for vulnerable adults,
is a regulated activity relating to vulnerable adults.”
- Local Government and Public Involvement in Health Act 2007 (c. 28)*
- 94 In section 227 of the Local Government and Public Involvement in Health Act 2007 (local involvement networks: annual reports), in subsection (4), after paragraph (c) insert—
“(ca) the Care Quality Commission;”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 6

Section 98

THE OFFICE OF THE HEALTH PROFESSIONS ADJUDICATOR

VALID FROM 25/01/2010

Interpretation

- 1 In this Schedule “the relevant Northern Ireland department” means the Department of Health, Social Services and Public Safety in Northern Ireland.

VALID FROM 25/01/2010

Status

- 2 (1) The OHPA is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The OHPA's property is not to be regarded as property of, or property held on behalf of, the Crown.

VALID FROM 25/01/2010

General powers

- 3 (1) The OHPA may do anything which appears to it to be necessary or expedient for the purposes of, or in connection with, the exercise of its functions.
- (2) This includes, in particular, the power to—
- (a) acquire and dispose of land and other property, and
 - (b) enter into contracts.

Membership

VALID FROM 28/09/2009

- 4 The OHPA is to consist of the following members—
- (a) a chair appointed by the Privy Council,
 - (b) non-executive members appointed by the Privy Council, and
 - (c) executive members appointed in accordance with paragraph 8.

- 5 No person may be appointed as a member unless the person satisfies such requirements as may be prescribed in regulations made by the Privy Council.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I12 Sch. 6 para. 5 partly in force; Sch. 6 para. 5 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 28/09/2009

- 6 A person may be appointed as the chair only if the person (as well as satisfying any requirements prescribed under paragraph 5)—
- (a) has a 10 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
 - (b) is an advocate or solicitor in Scotland of at least 10 years' standing, or
 - (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least 10 years' standing.
- 7 (1) The Privy Council must by regulations make provision about the number of non-executive and executive members.
- (2) The regulations must provide for there to be—
- (a) at least one but no more than three non-executive members, and
 - (b) at least one but no more than three executive members.
- (3) The regulations may not provide for the number of executive members to be greater than the number of non-executive members.

Commencement Information

I13 Sch. 6 para. 7 partly in force; Sch. 6 para. 7 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 28/09/2009

- 8 (1) The first executive members are to be appointed by the Privy Council.
- (2) Subsequent appointments of executive members are to be made by the OHPA.
- (3) The executive members must be employees of the OHPA.
- (4) Sub-paragraph (3) is to be taken to be complied with in relation to the first executive members appointed under sub-paragraph (1) if they are employed by the OHPA as soon as practicable after being appointed.

VALID FROM 28/09/2009

- 9 Each of the members mentioned in paragraph 4(a) to (c)—
- (a) holds and vacates office in accordance with the terms of the member's appointment, and
 - (b) may be removed from office by the Privy Council on the grounds of incapacity or misbehaviour.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 28/09/2009

- 10 (1) Subject to sub-paragraph (2), the terms of a member's appointment are to be determined by the person making the appointment.
- (2) The terms of appointment of an executive member appointed by the OHPA are to be determined by the Privy Council in so far as the terms relate to tenure of office or suspension from office.

VALID FROM 25/01/2010

Procedure

- 11 The OHPA may regulate its own procedure.
- 12 The validity of proceedings of the OHPA is not affected—
- (a) by any vacancy in its membership,
 - (b) by any defect in the appointment of a member, or
 - (c) by any person—
 - (i) acting as a member even though ineligible for appointment when purportedly appointed, or
 - (ii) acting as a member after having ceased to be a member.

VALID FROM 25/01/2010

Members' interests

- 13 (1) The OHPA must establish and maintain a system for the declaration and registration of private interests of its members.
- (2) The OHPA must publish entries recorded in the register of members' interests.

VALID FROM 25/01/2010

Remuneration and allowances

- 14 (1) The OHPA must pay to its chair, or to any other member, such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines, the OHPA must pay or make provision for the payment of such pension, allowances or gratuities as the Secretary of State may determine to or in respect of a person who is or has been the chair or any other member of the OHPA.
- (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chair of the OHPA to receive compensation, the OHPA must—
- (a) pay to that person, or

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) make provision for the payment to that person of, such compensation as the Secretary of State may determine.

PROSPECTIVE

FI ...

Textual Amendments

F1 Sch. 6 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 231\(2\)](#), [306\(4\)](#) (with [Sch. 15 para. 76](#)); [S.I. 2012/1319](#), [art. 2\(3\)](#)

F1F1 ...

F1F1 ...

VALID FROM 25/01/2010

Employees

- 17 (1) The OHPA may appoint such employees (in addition to the executive members) as it considers appropriate on such terms and conditions as it may determine.
- (2) Without prejudice to its other powers, the OHPA may pay, or make provision for the payment of—
- (a) pensions, allowances and gratuities, or
 - (b) compensation for loss of employment or reduction of remuneration, to or in respect of its employees.

VALID FROM 25/01/2010

Payments and loans to the OHPA

- 18 (1) The Secretary of State may make payments to the OHPA of such amounts, at such times and on such conditions (if any) as the Secretary of State considers appropriate.
- (2) The relevant Northern Ireland department may make payments to the OHPA of such amounts, at such times and on such conditions (if any) as it considers appropriate.
- (3) The Secretary of State may make loans to the OHPA on such terms (including terms as to repayment and interest) as the Secretary of State may determine.
- (4) The approval of the Treasury is required as to the amount and terms of any loan under sub-paragraph (3).
- (5) The relevant Northern Ireland department may make loans to the OHPA on such terms (including terms as to repayment and interest) as it may determine.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) The approval of the Department of Finance and Personnel in Northern Ireland is required as to the amount and terms of any loan under sub-paragraph (5).
- (7) Except as provided by sub-paragraphs (3) and (5), the OHPA has no power to borrow money.
- (8) The Secretary of State may give directions to the OHPA as to the application of any sums received by it under sub-paragraph (1) or (3).
- (9) The relevant Northern Ireland department may give directions to the OHPA as to the application of any sums received by it under sub-paragraph (2) or (5).
- (10) The OHPA must comply with any directions under sub-paragraph (8) or (9).

VALID FROM 25/01/2010

Accounts

- 19
- (1) The OHPA must keep accounts in such form as the Secretary of State may determine.
 - (2) The OHPA must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.
 - (3) The OHPA must send copies of the annual accounts to—
 - (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General,
 within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.
 - (4) Within that period the OHPA must also send copies of the annual accounts to the relevant Northern Ireland department.
 - (5) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts, and of the report on them, before Parliament.
 - (6) A copy of the accounts must be laid before the Northern Ireland Assembly by the relevant Northern Ireland department.
 - (7) In this paragraph and paragraph 20, “financial year” means—
 - (a) the period beginning with the day on which the OHPA is established and ending with the next 31 March following that day, and
 - (b) each successive period of 12 months ending with 31 March.

VALID FROM 25/01/2010

Reports

- 20
- (1) The OHPA must prepare a report on the exercise of its functions during each financial year.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) As soon as possible after the end of the financial year the OHPA must send copies of the report to—
 - (a) the Secretary of State, and
 - (b) the relevant Northern Ireland department.
- (3) A copy of the report must be laid—
 - (a) before Parliament, by the Secretary of State, and
 - (b) before the Northern Ireland Assembly, by the relevant Northern Ireland department.
- (4) The Privy Council may give directions to the OHPA as to the matters to be dealt with in the report.

VALID FROM 25/01/2010

Seal and evidence

- 21 The application of the seal of the OHPA must be authenticated by the signature—
 - (a) of any member of the OHPA, or
 - (b) of any other person who has been authorised by the OHPA (whether generally or specifically) for that purpose.
- 22 A document—
 - (a) purporting to be duly executed under the seal of the OHPA, or
 - (b) purporting to be signed on behalf of the OHPA,is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

VALID FROM 25/01/2010

Meetings of the OHPA in Northern Ireland

- 23 (1) Sections 23 to 27 of the Local Government Act (Northern Ireland) 1972 (c. 9) (which provide for public access to meetings of a district council, the publication of information concerning such meetings etc.) apply in relation to meetings of the OHPA in Northern Ireland as they apply in relation to meetings of a district council but subject to the following modifications.
- (2) The modifications are that—
 - (a) any reference to a district council is to be read as a reference to the OHPA, and
 - (b) any reference to councillors or members of the council is to be read as a reference to members of the OHPA.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F2F2 ...
F2F2 ...

VALID FROM 01/10/2008

SCHEDULE 8

Section 111

EXTENSION OF POWERS UNDER S. 60 OF HEALTH ACT 1999

SCHEDULE 9

Section 124

REGULATION OF SOCIAL CARE WORKERS

Interpretation

- 1 In this Schedule—
- “functions” includes powers and duties;
 - “regulations” means regulations under section 124;
 - “the appropriate Council” means—
 - (a) in relation to regulations made by the Secretary of State, the General Social Care Council, and
 - (b) in relation to regulations made by the Welsh Ministers, the Care Council for Wales.

Commencement Information

I14 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

Matters generally within the scope of regulations

- 2 Regulations may make provision for the following matters (among others)—
- (a) the functions of the appropriate Council;
 - (b) the keeping of registers of social care workers of any description;
 - (c) education and training;
 - (d) privileges of registered persons;
 - (e) standards of conduct and performance (including standards of conduct and performance of social care workers carrying out the functions of an approved mental health professional within the meaning of section 114 of the Mental Health Act 1983 (c. 20));
 - (f) discipline;
 - (g) removal or suspension from registration or the imposition of conditions on registration;

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (h) investigation and enforcement by or on behalf of the appropriate Council;
- (i) appeals;
- (j) codes of practice or guidance for persons employing or seeking to employ social care workers.

Commencement Information

I15 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

Manner of exercise of power

- 3 The power to make regulations may be exercised by amending or repealing any provision (other than section 55) of the Care Standards Act 2000 (c. 14) and any other enactment and any other instrument or document.

Commencement Information

I16 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

- 4 The power may be exercised so as to make provision for the delegation of functions, including provision conferring power to make, confirm or approve subordinate legislation.

Commencement Information

I17 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

- 5 The power may be exercised so as to make provision—
- (a) for the charging of fees, and
 - (b) for the making of payments by the appropriate Council.

Commencement Information

I18 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

- 6 The power may be exercised so as to—
- (a) confer functions (including power to pay grants) on Ministers of the Crown or, in the case of regulations made by the Welsh Ministers, on the Welsh Ministers, or
 - (b) modify their functions.

Commencement Information

I19 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

- 7 The power may not be exercised so as to create any criminal offence, except an offence punishable on summary conviction with a fine not exceeding the amount specified as level 5 on the standard scale.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I20 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

Matters outside the scope of regulations

- 8 (1) Regulations may not abolish the General Social Care Council or the Care Council for Wales.
- (2) Where the Care Standards Act 2000 provides for any function mentioned in subparagraph (3) to be exercised by either of those Councils or any of its committees or officers, regulations may not provide for any person other than that Council or any of its committees or officers to exercise that function.
- (3) Those functions are—
- (a) keeping the register of social care workers of any description,
 - (b) determining standards of education and training required as a condition of registration,
 - (c) giving advice about standards of conduct and performance, and
 - (d) administering procedures (including making rules) relating to misconduct, removal from registration and similar matters.

Commencement Information

I21 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

Preliminary procedure for making regulations: England

- 9 (1) If the Secretary of State proposes to lay a draft of regulations before Parliament, the Secretary of State must first—
- (a) publish a draft of the regulations, and
 - (b) invite representations to be made to the Secretary of State about the draft by—
 - (i) persons appearing to the Secretary of State appropriate to represent social care workers affected by the regulations,
 - (ii) persons appearing to the Secretary of State appropriate to represent those provided with services by such social care workers, and
 - (iii) any other persons appearing to the Secretary of State appropriate to consult about the draft.
- (2) After the end of the period of 3 months beginning with the publication of the draft, the Secretary of State may lay the draft as published, or that draft with any modifications the Secretary of State considers appropriate, together with a report about the consultation, before Parliament.

Commencement Information

I22 Sch. 9 partly in force; Sch. 9 in force for specified purposes at Royal Assent, see s. 170

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Preliminary procedure for making regulations: Wales

- 10 (1) If the Welsh Ministers propose to lay a draft of regulations before the National Assembly for Wales, the Welsh Ministers must first—
- (a) publish a draft of the regulations, and
 - (b) invite representations to be made to the Welsh Ministers about the draft by—
 - (i) persons appearing to the Welsh Ministers appropriate to represent social care workers affected by the regulations,
 - (ii) persons appearing to the Welsh Ministers appropriate to represent those provided with services by such social care workers, and
 - (iii) any other persons appearing to the Welsh Ministers appropriate to consult about the draft.
- (2) After the end of the period of 3 months beginning with the publication of the draft, the Welsh Ministers may lay the draft as published, or that draft with any modifications they consider appropriate, together with a report about the consultation, before the National Assembly for Wales.

Commencement Information

I23 [Sch. 9](#) partly in force; [Sch. 9](#) in force for specified purposes at Royal Assent, see [s. 170](#)

SCHEDULE 10

Section 127

FURTHER AMENDMENTS RELATING TO PART 2

VALID FROM 01/01/2009

Provision consequential on section 113(1)

- 1 (1) Any reference in any instrument or document to the Council for the Regulation of Health Care Professionals is to be read, in relation to any time after the commencement of section 113(1), as a reference to the Council for Healthcare Regulatory Excellence.
- (2) Any reference in this Act or in any other enactment, instrument or document to the Council for Healthcare Regulatory Excellence is to be read, in relation to any time before the commencement of section 113(1), as a reference to the Council for the Regulation of Health Care Professionals.

VALID FROM 01/01/2009

Public Records Act 1958 (c. 51)

- 2 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the table set out in paragraph 3 of that Schedule—

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) for “Council for the Regulation of Health Care Professionals” substitute “ Council for Healthcare Regulatory Excellence ”, and
- (b) at the appropriate place insert— “ The Office of the Health Professions Adjudicator. ”

VALID FROM 01/01/2009

Public Bodies (Admission to Meetings) Act 1960 (c. 67)

- 3 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960—
- (a) in paragraph 1 (bodies to which in England and Wales Act applies), for the paragraph (bd) inserted by paragraph 21 of Schedule 7 to the 2002 Act substitute—
 - “(bca) the Council for Healthcare Regulatory Excellence;
 - (bcb) the Office of the Health Professions Adjudicator;”, and
 - (b) in paragraph 2 (bodies to which in Scotland Act applies), before paragraph (d) insert—
 - “(ca) the Council for Healthcare Regulatory Excellence;
 - (cb) the Office of the Health Professions Adjudicator;”.

VALID FROM 01/01/2009

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified)—
- (a) for “The Council for the Regulation of Health Care Professionals” substitute “ The Council for Healthcare Regulatory Excellence ”, and
 - (b) at the appropriate place insert— “ The Office of the Health Professions Adjudicator. ”

VALID FROM 01/01/2009

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 5 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified)—
- (a) for “The Council for the Regulation of Health Care Professionals” substitute “ The Council for Healthcare Regulatory Excellence ”, and
 - (b) at the appropriate place insert— “ The Office of the Health Professions Adjudicator. ”

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/01/2009

Race Relations Act 1976 (c. 74)

- 6 In Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty)—
- (a) in Part 2, at the appropriate place under the heading “Health” insert— “The Office of the Health Professions Adjudicator.”, and
 - (b) in Part 3, for “The Council for the Regulation of Health Care Professionals” substitute “The Council for Healthcare Regulatory Excellence”.

VALID FROM 01/01/2009

Dentists Act 1984 (c. 24)

PROSPECTIVE

- 7 In section 27 of the Dentists Act 1984 (allegations against registered dentists), in subsection (2)(g), after “social care profession” insert “, or by the Office of the Health Professions Adjudicator.”.
- 8 In section 36A of the Dentists Act 1984 (professions complementary to dentistry), in subsection (1)(b), for “the Council for the Regulation of Health Care Professionals” substitute “the Council for Healthcare Regulatory Excellence”.

PROSPECTIVE

F39

Textual Amendments

- F3** Sch. 10 para. 9 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 75\(4\)](#); S.I. 2012/1319, art. 2(3)

Health Act 1999 (c. 8)

VALID FROM 01/01/2009

- 10 In section 60 of the 1999 Act (regulation of health care and associated professions), in subsection (1)(c), for “the Council for the Regulation of Health Care Professionals” substitute “the Council for Healthcare Regulatory Excellence”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 11 In section 62 of the 1999 Act (regulations and orders), for subsection (4) substitute—
- “(4) Any power under this Act to make Orders in Council or orders—
- (a) may be exercised either in relation to all cases to which the power extends, or in relation to all cases subject to specified exceptions, or in relation to any specified cases or classes of case,
 - (b) may be exercised so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act,
 - (iii) any such provision either unconditionally or subject to any specified condition, and
 - (c) may, in particular, be exercised so as to make different provision for different areas.
- (4A) Any such power includes power—
- (a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking enactments) as the person exercising the power considers to be expedient, and
 - (b) to provide for a person to exercise a discretion in dealing with any matter.”

Commencement Information

I24 Sch. 10 para. 11 partly in force; Sch. 10 para. 11 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 01/01/2009

- 12 In Schedule 3 to the 1999 Act (regulation of health care and associated professions), in paragraph 7(4), for “the Council for the Regulation of Health Care Professionals” substitute “ the Council for Healthcare Regulatory Excellence ”.

VALID FROM 01/01/2009

Freedom of Information Act 2000 (c. 36)

- 13 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities)—
- (a) for “The Council for the Regulation of Health Care Professionals” substitute “ The Council for Healthcare Regulatory Excellence ”, and

Status: Point in time view as at 25/08/2008.

Changes to legislation: *Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) at the appropriate place insert— “ The Office of the Health Professions Adjudicator.”

PROSPECTIVE

Nursing and Midwifery Order 2001 (S.I. 2002/253)

^{F4}14

Textual Amendments

F4 Sch. 10 para. 14 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 75\(4\)](#); [S.I. 2012/1319](#), art. 2(3)

PROSPECTIVE

Health Professions Order 2001 (S.I. 2002/254)

^{F5}15

Textual Amendments

F5 Sch. 10 para. 15 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 75\(4\)](#); [S.I. 2012/1319](#), art. 2(3)

VALID FROM 01/01/2009

National Health Service Reform and Health Care Professions Act 2002 (c. 17)

16 For the title to section 25 of the 2002 Act, and for the heading immediately preceding the section, substitute “The Council for Healthcare Regulatory Excellence”.

17 (1) Section 25 of the 2002 Act is amended as follows.

(2) In subsection (3), for paragraphs (h) and (i) substitute—
“(ga) the Nursing and Midwifery Council,
(gb) the Health Professions Council, and”.

(3) In that subsection, for paragraph (j) substitute—
“(j) any other regulatory body (within the meaning of Schedule 3 to the 1999 Act) established by an Order in Council under section 60 of that Act.”

(4) In subsection (6), omit “and (3)”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

F6 18

Textual Amendments

F6 Sch. 10 para. 18 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 75\(4\)](#); S.I. 2012/1319, art. 2(3)

19 For the title to Schedule 7 to the 2002 Act substitute “The Council for Healthcare Regulatory Excellence”.

Health Act 2006 (c. 28)

20 In section 58 of the Health Act 2006 (which enables the Secretary of State to arrange for appointment functions of the Secretary of State to be exercised by the Appointments Commission), in subsection (3), for the words from “chairmen” to the end substitute—

- “(a) chairmen and non-executive members of any of the statutory bodies listed in Schedule 5, and
- (b) non-executive members of the Council for Healthcare Regulatory Excellence.”

Commencement Information

I25 [Sch. 10 para. 20](#) in force at 25.8.2008 by [S.I. 2008/2214](#), [art. 2\(b\)](#)

21 In section 60 of the Health Act 2006 (which enables the Privy Council to arrange for its functions relating to the appointment of regulatory bodies to be exercised by the Appointments Commission), after subsection (2) insert—

- “(3) The Commission is to exercise so much of any function of the Privy Council relating to the appointment of—
- (a) the chair of the Council for Healthcare Regulatory Excellence, or
 - (b) members of the Office of the Health Professions Adjudicator,
- as may be specified in a direction given by the Privy Council.”

Commencement Information

I26 [Sch. 10 para. 21](#) in force at 25.8.2008 for specified purposes by [S.I. 2008/2214](#), [art. 2\(c\)](#)

VALID FROM 25/01/2010

22 In section 63 of the Health Act 2006 (Appointments Commission to assist other bodies with appointments), after subsection (6) insert—

- “(6A) The Commission may enter into arrangements under subsection (6B) with the Office of the Health Professions Adjudicator.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6B) Arrangements under this subsection are arrangements providing for the Commission to assist the Office of the Health Professions Adjudicator in connection with the exercise of its powers relating to—
- (a) the appointment of executive members of the Office of the Health Professions Adjudicator, or
 - (b) the appointment of persons to lists under section 101 of the Health and Social Care Act 2008 (lists of persons eligible for membership of the OHPA's fitness to practise panels)."

VALID FROM 01/01/2009

- 23 In Schedule 5 to the Health Act 2006 (Appointments Commission: list of statutory bodies), omit the entry relating to the Council for the Regulation of Health Care Professionals.

VALID FROM 01/01/2009

National Health Service Act 2006 (c. 41)

- 24 In section 201 of the National Health Service Act 2006 (disclosure of information), in subsection (4)(b), for “Council for the Regulation of Health Care Professionals” substitute “ Council for Healthcare Regulatory Excellence ”.

VALID FROM 01/01/2009

National Health Service (Wales) Act 2006 (c. 42)

- 25 In section 149 of the National Health Service (Wales) Act 2006 (disclosure of information), in subsection (4)(b), for “Council for the Regulation of Health Care Professionals” substitute “ Council for Healthcare Regulatory Excellence ”.

VALID FROM 01/01/2009

National Assembly for Wales (Disqualification) Order 2006 (S.I. 2006/3335)

- 26 In Part 1 of the Schedule to the National Assembly for Wales (Disqualification) Order 2006 (bodies of which all members are disqualified)—
- (a) for “Council for the Regulation of Health Care Professionals” substitute “ Council for Healthcare Regulatory Excellence ”, and
 - (b) at the appropriate place insert— “ Office of the Health Professions Adjudicator; ”.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

Pharmacists and Pharmacy Technicians Order 2007 (S.I. 2007/289)

F727

Textual Amendments

F7 Sch. 10 para. 27 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 71\(4\)](#); S.I. 2012/1319, art. 2(3)

SCHEDULE 11

Section 130

PUBLIC HEALTH PROTECTION: FURTHER AMENDMENTS

VALID FROM 06/04/2010

Introductory

1 In this Schedule “the 1984 Act” means the Public Health (Control of Disease) Act 1984 (c. 22).

VALID FROM 06/04/2010

Local Government, Planning and Land Act 1980 (c. 65)

2 In section 159 of the Local Government, Planning and Land Act 1980 (public health etc.), in subsection (1), omit paragraph (e) and the word “and” immediately preceding it.

Public Health (Control of Disease) Act 1984

VALID FROM 06/04/2010

3 (1) Section 1 (authorities administering Act) of the 1984 Act is amended as follows.
(2) For subsection (1) substitute—
 “(1) In this Act “local authority” means any of the following—
 (a) a district council;
 (b) in England, a county council for an area for which there is no district council;
 (c) in Wales, a county council or county borough council;
 (d) a London borough council;

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	<p>(e) the Common Council of the City of London;</p> <p>(f) the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;</p> <p>(g) the Council of the Isles of Scilly.”</p> <p>(3) Omit subsections (2) and (4).</p>
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VALID FROM 06/04/2010

4	<p>(1) Section 5 of the 1984 Act (financial provisions as to port health authorities) is amended as follows.</p> <p>(2) In subsection (2), for the words from “shall” onwards substitute “ shall be defrayed by the constituent districts in such proportions and in such manner as may be determined by or in accordance with the order. ”</p> <p>(3) In subsection (3), omit “or rating districts”.</p>
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VALID FROM 06/04/2010

5	<p>In section 7 of the 1984 Act (port health district and authority for Port of London), in subsection (4), omit paragraphs (c) and (d).</p>
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VALID FROM 06/04/2010

6	<p>Omit section 9 of the 1984 Act (vessels in inland or coastal waters).</p>
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VALID FROM 06/04/2010

7	<p>In section 48 of the 1984 Act (removal of body to mortuary or for immediate burial), in subsection (1), for the words from “in any building” to “neighbouring building” substitute “ in any place would endanger the health of any person ”.</p>
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VALID FROM 06/04/2010

8	<p>In section 49 of the 1984 Act (regulations as to canal boats), in subsection (1)—</p> <p>(a) at the end of paragraph (a) insert “ and ”,</p> <p>(b) omit paragraph (c) and the word “and” immediately preceding it.</p>
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VALID FROM 06/04/2010

9	<p>In section 50 of the 1984 Act (power to enter and inspect canal boats), in subsection (2)—</p> <p>(a) omit paragraph (b) and the word “or” immediately preceding it, and</p> <p>(b) omit “or any person on board suffering from an infectious disease”.</p>
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Status: Point in time view as at 25/08/2008.

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VALID FROM 06/04/2010

- 10 In section 51 of the 1984 Act (duties of local authorities and port health authorities under Part 4)—
- (a) omit subsection (1), and
 - (b) in subsection (2) omit the words “the provisions of this Part of this Act and”.

VALID FROM 06/04/2010

- 11 Omit section 52 of the 1984 Act (prosecution of offences under Part 4).

VALID FROM 06/04/2010

- 12 Omit sections 54 to 57 of the 1984 Act.

VALID FROM 06/04/2010

- 13 In section 58 of the 1984 Act (form of notices and other documents), in subsection (1) for “local authority” (in each place it occurs) substitute “relevant health protection authority”.

VALID FROM 06/04/2010

- 14 In section 59 of the 1984 Act (authentication of documents)—
- (a) for “local authority” (wherever it occurs) substitute “relevant health protection authority”, and
 - (b) in subsection (2) for “byelaws” substitute “regulations”.

VALID FROM 06/04/2010

- 15 In section 60 of the 1984 Act (service of notices and other documents) for “made by this Act” substitute “made by or under this Act”.

- 16 After section 60 of the 1984 Act insert—

“60A Electronic communications

- (1) The appropriate Minister may by regulations make provision enabling notices, orders and other documents specified in the regulations to be given or served by an electronic communication.
- (2) Such provision must however secure that the notices, orders and other documents specified in the regulations may only be so given or served if—

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- (a) the person to whom they are to be given or on whom they are to be served has consented in writing to the receipt of notices, orders and other documents by an electronic communication, and
 - (b) the communication is sent to the number or address specified by that person when giving consent.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) An instrument containing any such regulations is subject to annulment—
- (a) in the case of regulations made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
 - (b) in the case of regulations made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.
- (5) Sections 58 to 60 are to be read subject to any provision made in regulations under this section.
- (6) In this section—
- “electronic communication” has the same meaning as in the Electronic Communications Act 2000,
 - “notices, orders and other documents” means notices, orders and other documents authorised or required by or under this Act to be given or served, and
 - “the appropriate Minister” means—
- (a) the Secretary of State, in relation to England;
 - (b) the Welsh Ministers, in relation to Wales.”

Commencement Information

I27 Sch. 11 para. 16 partly in force; Sch. 11 para. 16 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 06/04/2010

- 17 (1) Section 61 of the 1984 Act (power to enter premises) is amended as follows.
- (2) In subsection (1)—
- (a) for “authorised officer of a local authority” substitute “ proper officer of a relevant health protection authority ”,
 - (b) for paragraph (a) substitute—
 - “(a) for the purposes of ascertaining whether there is, or has been, any contravention of a relevant provision of this Act, or of an order made by a justice of the peace under Part 2A of this Act, which it is the function of the relevant health protection authority to enforce.”, and
 - (c) in each of paragraphs (b), (c) and (d)—
 - (i) for “or such byelaws” substitute “ or in relation to such an order ”, and
 - (ii) for “local authority” substitute “ relevant health protection authority ”.

Status: Point in time view as at 25/08/2008.

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(3) In subsection (2) omit “, other than a factory or workplace.”

(4) After subsection (2) insert—

“(2A) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling (but this does not affect the power of a justice of the peace under subsection (3) to issue a warrant authorising entry to a private dwelling or to any part of premises used as a private dwelling).”

(5) In subsection (3), for “the local authority by any authorised officer” substitute “ the relevant health protection authority by any proper officer ”.

VALID FROM 06/04/2010

18 (1) Section 62 of the 1984 Act (supplementary provisions as to entry) is amended as follows.

(2) In subsection (1)—

- (a) for “An authorised officer” substitute “ A proper officer (“the officer”) ”, and
- (b) after “other persons” insert “ and such equipment and materials ”.

(3) After subsection (1) insert—

“(1A) The officer may for the purpose for which entry is authorised—

- (a) search the premises,
- (b) carry out measurements and tests of the premises or of anything found on them,
- (c) take and retain samples of the premises or of anything found on them,
- (d) inspect and take copies or extracts of any documents or records found on the premises,
- (e) require information stored in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form, and
- (f) seize and detain or remove anything which the officer reasonably believes to be evidence of any contravention relevant to the purpose for which entry is authorised.”

(4) Omit subsection (3).

(5) For subsection (4) substitute—

“(4) Nothing in section 61 or this section limits the provisions of Parts 2A and 4, and of regulations made under Part 2A, with respect to entry into or upon, and inspection of, any premises.”

VALID FROM 06/04/2010

19 For section 63 of the 1984 Act substitute—

Status: Point in time view as at 25/08/2008.

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“63 Offence of wilful obstruction

- (1) A person commits an offence if the person wilfully obstructs any person acting in the execution of a provision of Part 3 or 4 or this Part, or of any regulations, order or warrant made or issued under such a provision.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
 - (a) in the case of an offence of wilfully obstructing a person in the execution of a provision of Part 4 or of any regulations made under a provision of that Part, to a fine not exceeding level 1 on the standard scale, and
 - (b) in any other case, to a fine not exceeding £20,000.”

VALID FROM 06/04/2010

20 After section 63 of the 1984 Act insert—

“63A Offences by bodies corporate

- (1) If an offence created by or under this Act is committed by a body corporate and is proved—
 - (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on the part of an officer,the officer (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) “Officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

63B Unincorporated associations

- (1) Proceedings for an offence alleged to have been committed by an unincorporated association are to be brought in the name of the association (and not in that of any of the members).
- (2) Rules of court relating to the service of documents have effect as if the unincorporated association were a body corporate.
- (3) In proceedings for an offence brought against an unincorporated association, Schedule 3 to the Magistrates' Courts Act 1980 applies as it applies to a body corporate.
- (4) A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) If an offence committed by an unincorporated association is proved—
- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
 - (b) to be attributable to any neglect on the part of such an officer or member,
- the officer or member (as well as the association) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In this section, “offence” means an offence created by or under this Act.”

VALID FROM 06/04/2010

- 21 (1) Section 64 of the 1984 Act (restriction on right to prosecute) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Proceedings in respect of an offence created by a provision of, or regulations under, this Act may not be taken by any person other than—
- (a) a relevant health protection authority,
 - (b) a body whose function it is to enforce the provision or regulation in question, or
 - (c) a person who made (or whose predecessors made) the regulation in question.”
- (3) Subsection (2) is omitted.

VALID FROM 06/04/2010

- 22 After section 64 of the 1984 Act insert—
- “64A Time limits for prosecutions**
- (1) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980, a magistrates' court may try an information (or written charge) relating to an offence created by or under this Act if the information is laid (or the charge is issued)—
- (a) before the end of the period of 3 years beginning with the date of the commission of the offence, and
 - (b) before the end of the period of 6 months beginning with the date on which evidence which the prosecutor thinks is sufficient to justify the proceedings comes to the prosecutor's knowledge.
- (2) For the purposes of subsection (1)(b)—
- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact, and
 - (b) a certificate stating that matter and purporting to be so signed is to be treated as so signed unless the contrary is proved.”

Status: Point in time view as at 25/08/2008.

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VALID FROM 06/04/2010

- 23 (1) Section 67 of the 1984 Act (applications to, and appeals from, magistrates' courts) is amended as follows.
- (2) In subsection (1), after “this Act” insert “ or a provision contained in regulations made under this Act ”.
- (3) Omit subsection (3).

VALID FROM 06/04/2010

24 For section 69 of the 1984 Act substitute—

“69 Protection from personal liability

- (1) Nothing done by a relevant health protection authority or by one of its officers, and no contract entered into by such an authority, is to subject the authority or officer to any action, liability, claim or demand whatsoever if the thing is done, or the contract is entered into, bona fide for the purposes of executing a relevant provision of this Act.
- (2) Any expense incurred by any such authority or officer acting bona fide as mentioned in subsection (1) is to be borne and repaid out of the fund applicable by the authority to its functions of executing the provision in question.
- (3) Reference in this section to an officer of a relevant health protection authority also includes a member of that authority and any person acting under the direction of that authority.”

VALID FROM 06/04/2010

25 Omit section 70 of the 1984 Act (local inquiries).

26 For section 71 of the 1984 Act substitute—

“71 Default powers

- (1) Subsection (2) applies if the appropriate Minister is satisfied that a relevant health protection authority has failed to discharge its functions under a relevant provision of this Act in any case where it ought to have discharged them.
- (2) The appropriate Minister may make an order—
- (a) declaring the authority to be in default, and
 - (b) directing the authority to discharge such of its functions, and in such manner and within such time or times, as may be specified in the order.

Status: Point in time view as at 25/08/2008.

Changes to legislation: Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) If the authority fails to comply with a requirement of the order within the specified time, the appropriate Minister may—
- (a) enforce the order by mandatory order or otherwise, or
 - (b) make an order transferring such of the functions of the authority to the Minister or such other public authority as may be specified in the order.
- (4) If functions are transferred by virtue of subsection (3)(b) to the Minister, the Minister may direct another public authority to discharge them on the Minister's behalf.
- (5) An order under subsection (3)(b) may include provision about the funding of the functions, including provision requiring the relevant health protection authority to bear any costs associated with the discharge of those functions by or on behalf of the Minister or other public authority.
- (6) The appropriate Minister may vary or revoke an order made by the Minister under subsection (3)(b), but without prejudice to anything previously done under it.
- (7) If such an order is revoked, the appropriate Minister may, either by the revoking order or by a subsequent order, make provision with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by or on behalf of the Minister or other public authority in discharging any functions to which the revoking order related.”

Commencement Information

I28 Sch. 11 para. 26 partly in force; Sch. 11 para. 26 in force for specified purposes at Royal Assent, see s. 170

VALID FROM 06/04/2010

27 In section 72 of the 1984 Act (cumulative effect of Act) for “by this Act” substitute “ by or under this Act ”.

VALID FROM 06/04/2010

28 In section 73 of the 1984 Act (Crown property) after subsection (4) insert—

“(5) In this section “premises” does not include any vessel—

- (a) belonging to Her Majesty, or
- (b) under the command or charge of an officer holding Her Majesty's commission.”

VALID FROM 06/04/2010

29 (1) Section 74 of the 1984 Act (interpretation) is amended as follows.

(2) For the definition of “district” substitute—

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““district” means—

- (a) in relation to a local authority in Greater London, a London borough, the City of London, the Inner Temple or the Middle Temple,
- (b) in relation to a local authority in England for an area for which there is no district council, that area,
- (c) in relation to a local authority in Wales, a county or county borough,
- (d) in relation to the Council of the Isles of Scilly, those Isles;”.

(3) In the definition of “local authority” for “section 1(2)” substitute “ section 1(1) ”.

(4) For the definition of “premises” substitute—

““premises” includes any place and, in particular, includes—

- (a) any vehicle, train, vessel or aircraft,
- (b) any tent or movable structure, and
- (c) any offshore installation (as defined in section 12(1) of the Mineral Workings (Offshore Installations) Act 1971);”.

(5) In the definition of “relevant provision of this Act”, before “other” insert “ (including a provision in regulations made under this Act) ”.

(6) In the appropriate place, insert the following definitions—

““public authority” has the meaning given in section 6(3) of the Human Rights Act 1998;”,

““relevant health protection authority” means—

- (a) a local authority, port health authority or joint board with functions under a relevant provision of this Act, and
- (b) if regulations under Part 2A confer functions on a public authority of any other description and state that the authority is to be regarded as a relevant health protection authority with respect to those functions, that authority;”.

(7) The following definitions are omitted—

- (a) “coastal waters”;
- (b) “common lodging-house”;
- (c) “dustbin”;
- (d) “factory”;
- (e) “hospital”;
- (f) “house”;
- (g) “inland waters”;
- (h) “local Act”;
- (i) “NHS trust” and “NHS contract”;
- (j) “notifiable disease”;
- (k) “rating district”;
- (l) “school”;
- (m) “street”.

Status: Point in time view as at 25/08/2008.

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VALID FROM 06/04/2010

30 Omit section 76 of the 1984 Act (Isle of Man and Channel Islands).

VALID FROM 06/04/2010

Planning and Compensation Act 1991 (c. 34)

31 In Part 1 of Schedule 18 to the Planning and Compensation Act 1991 (provisions that do not provide for interest) omit the entry for section 57 of the Public Health (Control of Disease) Act 1984.

VALID FROM 01/04/2010

SCHEDULE 12

Section 140

FUNDING OF EXPENDITURE IN CONNECTION
WITH PROVISION OF PHARMACEUTICAL SERVICES

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VALID FROM 06/04/2009

SCHEDULE 13

Section 147(6)

TRANSITIONAL PROVISIONS RELATING TO S. 147

Interpretation of Schedule

1 In this Schedule “the 1948 Act” means the National Assistance Act 1948 (c. 29).

Complaints, orders and payments under section 43 of the 1948 Act

2 (1) No complaint may be made under section 43 of the 1948 Act on or after the appointed day, not even—

- (a) in respect of assistance given, or applied for, before that day, or
- (b) in respect of expenditure incurred by virtue of section 47 of that Act—
 - (i) before the appointed day, or
 - (ii) in connection with the maintenance of a person who is maintained in pursuance of an order under section 47 of that Act (order for removing, to suitable premises, person in need of care and attention) made before the appointed day.

Status: Point in time view as at 25/08/2008.

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- (2) No order may be made under section 43(2) of the 1948 Act on or after the appointed day, not even on a complaint made before that day.
- (3) No order made under section 43(2) of the 1948 Act—
 - (a) may be varied on or after the appointed day so as to—
 - (i) provide for any additional payment,
 - (ii) increase the amount of any payment, or
 - (iii) bring forward the time for making any payment;
 - (b) may be revived on or after the appointed day.
- (4) Where an order has been made under section 43(2) of the 1948 Act, the only payments required to be made under the order on or after the appointed day are overdue pre-commencement payments.
- (5) This Act does not prevent enforcement after the appointed day (whether by proceedings or otherwise) of an order under section 43(2) of the 1948 Act so far as the order relates to overdue pre-commencement payments.
- (6) In this paragraph—

“the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(a);

“overdue pre-commencement payment”, in relation to an order under section 43(2) of the 1948 Act, means a payment that under the order should have been (but was not) made before that day.
- (7) Sub-paragraphs (3) to (5) apply in relation to a registered order as to an order made under section 43(2) of the 1948 Act in England and Wales, except that in relation to a registered order “overdue pre-commencement payment” means a payment that under the registered order should have been (but was not) made before 5 October 2007.
- (8) In sub-paragraph (7) “registered order” means—
 - (a) an order made in Scotland under section 43(2) of the 1948 Act, and
 - (b) registered in England and Wales under Part 2 of the Maintenance Orders Act 1950 (c. 37) (enforcement in one part of the United Kingdom of orders made in another part).

Recovery of expenditure incurred under section 47(8) of the 1948 Act

- 3 (1) Sub-paragraphs (3) to (5) apply in relation to expenditure incurred under section 47(8) of the 1948 Act in connection with the maintenance of any particular person (“A”).
- (2) In sub-paragraphs (3) to (5) “liability proceedings” means proceedings for the expenditure’s recovery under section 47(9) of the 1948 Act from a person other than A if the proceedings are brought against that other person (“B”) on account of B having, at a time before the appointed day, been for the purposes of the 1948 Act liable to maintain A.
- (3) No liability proceedings may be begun, or continued, on or after the appointed day; but this is subject to sub-paragraph (5).
- (4) Sub-paragraph (3) applies (subject to sub-paragraph (5))—

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- (a) even to expenditure incurred before the appointed day, and
- (b) even where A is maintained in pursuance of an order under section 47 of the 1948 Act made before the appointed day.

(5) Where liability proceedings begun before the appointed day resulted in a court making an order before that day for the recovery of the expenditure from B, this Act does not prevent the enforcement of the order (whether by proceedings or otherwise) on or after the appointed day.

(6) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(b).

Recovery of expenses incurred under section 48 of the 1948 Act

4 (1) Sub-paragraphs (3) to (5) apply in relation to reasonable expenses incurred under section 48(1) and (2) of the 1948 Act in relation to a person (“C”) admitted, or removed, as mentioned in section 48(1) of that Act.

(2) In sub-paragraphs (3) to (5) “liability proceedings” means proceedings for the expenses’ recovery under section 48(3) of the 1948 Act from a person other than C if the proceedings are brought against that other person (“D”) on account of D having, at a time before the appointed day, been for the purposes of the 1948 Act liable to maintain C.

(3) No liability proceedings may be begun, or continued, on or after the appointed day; but this is subject to sub-paragraph (5).

(4) Sub-paragraph (3) applies (subject to sub-paragraph (5))—

- (a) even to expenses incurred before the appointed day, and
- (b) even where C was admitted, or removed, before the appointed day.

(5) Where liability proceedings begun before the appointed day resulted in a court making an order before that day for the recovery of the expenditure from D, this Act does not prevent the enforcement of the order (whether by proceedings or otherwise) on or after the appointed day.

(6) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(c).

Prosecutions under section 51 of the 1948 Act

5 (1) Sub-paragraph (2) applies in relation to an offence under section 51 of the 1948 Act (offence where accommodation is provided under Part 3 of that Act in consequence of persistent refusal or neglect to maintain a person), other than an offence in respect of accommodation being provided to a person in consequence of that person’s persistent refusal or neglect to maintain himself.

(2) Proceedings for the offence may be begun or continued on or after the appointed day, but only if the accommodation provided in consequence of the refusal or neglect (or alleged refusal or neglect) began to be provided before the appointed day.

(3) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(d).

Status: Point in time view as at 25/08/2008.

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Transitional cases under paragraph 19(1) of Schedule 6 to the 1948 Act

- 6 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person was by virtue of an enactment repealed by the 1948 Act under a liability (whether under an order of a court or otherwise) to maintain another person,
 - (b) on the repeal of that enactment by the 1948 Act, that liability was saved by the operation of section 38(2) of the Interpretation Act 1889 (c. 63), and
 - (c) paragraph 19(1) of Schedule 6 to the 1948 Act (which ended a saved liability to maintain a person where there was no liability to maintain that person for the purposes of the 1948 Act) did not have effect to end that liability.
- (2) If that liability has not come to an end before the appointed day, it comes to an end as from the beginning of that day; but this is subject to sub-paragraph (3).
- (3) Where that liability is brought to an end by this Act and an order of a court made before the appointed day requires the making of payments on account of that liability, this Act—
- (a) does not end liability to make payments under the order that should have been (but were not) made before the appointed day, and
 - (b) does not prevent enforcement after the appointed day (whether by proceedings or otherwise) of the order so far as it relates to payments required by it to be made before the appointed day.
- (4) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(e).

Transitional cases under paragraph 19(2) of Schedule 6 to the 1948 Act

- 7 (1) Sub-paragraphs (2) and (3) apply where an order of court, or agreement, such as is mentioned in sub-paragraph (2) of paragraph 19 of Schedule 6 to the 1948 Act has effect at any time on or after 5 July 1948 by virtue of that sub-paragraph.
- (2) If the order or agreement has not ceased to have effect before the appointed day, it ceases to have effect as from the beginning of that day; but this is subject to sub-paragraph (3).
- (3) Where the order or agreement ceases to have effect as a result of the operation of this Act, this Act—
- (a) does not end liability to make payments under the order or agreement that should have been (but were not) made before the appointed day, and
 - (b) does not prevent enforcement after the appointed day (whether by proceedings or otherwise) of the order or agreement so far as it relates to payments required by virtue of the order or agreement to be made before the appointed day.
- (4) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(f).

Recovery of expenses under section 46 of the Public Health (Control of Disease) Act 1984

- 8 (1) Sub-paragraphs (3) to (5) apply in relation to expenses incurred under subsection (1) or (2) of section 46 of the Public Health (Control of Disease) Act 1984 (c. 22) in

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relation to a person (“E”) whose body has been buried, or cremated, as mentioned in that subsection.

- (2) In sub-paragraphs (3) to (5) “liability proceedings” means proceedings for the expenses’ recovery under section 46(5) of that Act from a person (“F”) on account of F having, at a time before the appointed day, been for the purposes of the 1948 Act liable to maintain E.
- (3) No liability proceedings may be begun, or continued, on or after the appointed day; but this is subject to sub-paragraph (5).
- (4) Sub-paragraph (3) applies (subject to sub-paragraph (5))—
 - (a) even to expenses incurred before the appointed day, and
 - (b) even where E died before the appointed day.
- (5) Where liability proceedings begun before the appointed day resulted in a court making an order before that day for the recovery of the expenditure from F, this Act does not prevent the enforcement of the order (whether by proceedings or otherwise) on or after the appointed day.
- (6) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(g).

VALID FROM 01/10/2008

SCHEDULE 14

Section 160

FURTHER AMENDMENTS RELATING TO PART 5

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VALID FROM 01/01/2009

SCHEDULE 15

Section 166

REPEALS AND REVOCATIONS

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Status:

Point in time view as at 25/08/2008.

Changes to legislation:

Health and Social Care Act 2008 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.