



Health and Social Care Act 2008

2008 CHAPTER 14

PART 2

REGULATION OF HEALTH PROFESSIONS AND HEALTH AND SOCIAL CARE WORKFORCE

The Office of the Health Professions Adjudicator

98. ^{F1} The Office of the Health Professions Adjudicator

.....

Textual Amendments

F1 Ss. 98-110 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)

PROSPECTIVE

99. ^{F1} Functions under Medical Act 1983 and Opticians Act 1989

.....

Textual Amendments

F1 Ss. 98-110 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)

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

PROSPECTIVE

100. ^{F1} Fitness to practise panels

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Textual Amendments

F1 Ss. 98-110 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)

PROSPECTIVE

101. ^{F1} Lists of persons eligible for membership of fitness to practise panels

.....

Textual Amendments

F1 Ss. 98-110 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)

PROSPECTIVE

102. ^{F1} Further provisions about listed persons

.....

Textual Amendments

F1 Ss. 98-110 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)

PROSPECTIVE

103. ^{F1} Legal assessors

.....

Textual Amendments

F1 Ss. 98-110 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)

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

PROSPECTIVE

104. ^{F1} Clinical and other specialist advisers

.....

Textual Amendments

F1 Ss. 98-110 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)

PROSPECTIVE

105. ^{F1} Procedural rules

.....

Textual Amendments

F1 Ss. 98-110 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)

PROSPECTIVE

106. ^{F1} Administration of oaths and issuing of witness summonses etc.

.....

Textual Amendments

F1 Ss. 98-110 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)

107. ^{F1} Duty to inform the public

.....

Textual Amendments

F1 Ss. 98-110 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)

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108. ^{F1}Duty to consult

.....

Textual Amendments

- F1** Ss. 98-110 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)

109. ^{F1}OHPA rules: supplementary

.....

Textual Amendments

- F1** Ss. 98-110 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)

110. ^{F1}Fees payable by General Medical Council and General Optical Council

.....

Textual Amendments

- F1** Ss. 98-110 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)

Amendments of Part 3 of Health Act 1999

111 Extension of powers under s. 60 of Health Act 1999

Schedule 8 (which contains amendments of section 60 of, and Schedule 3 to, the 1999 Act) has effect.

Commencement Information

- I1** S. 111 in force at 1.10.2008 for specified purposes by [S.I. 2008/2497](#), **art. 3(a)**
I2 S. 111 in force at 1.1.2009 for specified purposes by [S.I. 2008/3244](#), **art. 3(a)**

112 Standard of proof in fitness to practise proceedings

After section 60 of the 1999 Act insert—

“60A Standard of proof in fitness to practise proceedings

- (1) The standard of proof applicable to any proceedings to which this subsection applies is that applicable to civil proceedings.
- (2) Subsection (1) applies to any proceedings before—

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- (a) the Office of the Health Professions Adjudicator, or
- (b) a committee of a regulatory body, a regulatory body itself or any officer of a regulatory body,

which relate to a person's fitness to practise a profession to which section 60(2) applies.

- (3) In subsection (2) “regulatory body” means the body (or main body) responsible for the regulation of a profession to which section 60(2) applies.
- (4) An Order in Council under section 60 may not—
 - (a) amend this section, or
 - (b) make any provision that is inconsistent with subsection (1).”

Commencement Information

I3 S. 112 in force at 3.11.2008 for specified purposes by [S.I. 2008/2717](#), [art. 2](#)

The Council for Healthcare Regulatory Excellence

113 The Council for Healthcare Regulatory Excellence

- (1) The Council for the Regulation of Health Care Professionals is to be known instead as the Council for Healthcare Regulatory Excellence.
- (2) Accordingly, in section 25 of the 2002 Act (which establishes the Council), in subsection (1), for “the Council for the Regulation of Health Care Professionals” substitute “ the Council for Healthcare Regulatory Excellence ”.
- (3) After subsection (2) of that section insert—

“(2A) The main objective of the Council in exercising its functions under subsection (2)(b) to (d) is to promote the health, safety and well-being of patients and other members of the public.”

Commencement Information

I4 S. 113 in force at 1.1.2009 by [S.I. 2008/3244](#), [art. 2\(a\)](#)

114 Constitution etc. of Council

- (1) Schedule 7 to the 2002 Act (which contains provisions relating to the Council) is amended as follows.
- (2) For paragraph 4 substitute—

“4

The Council is to consist of—

- (a) a chair appointed by the Privy Council,
- (b) one non-executive member appointed by the Scottish Ministers,
- (c) one non-executive member appointed by the Welsh Ministers,

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- (d) one non-executive member appointed by the Department of Health, Social Services and Public Safety in Northern Ireland,
 - (e) three non-executive members appointed by the Secretary of State, and
 - (f) two executive members appointed in accordance with paragraph 11.”
- (3) In paragraph 6—
- (a) for paragraph (a) substitute—
 - “(a) the conditions to be fulfilled for appointment as chair or other member of the Council,”,
 - (b) in paragraph (b), for “chairman and other members” substitute “ chair and non-executive members ”, and
 - (c) before the “and” at the end of paragraph (b) insert—
 - “(ba) the appointment of a member as deputy chair and the circumstances in which that member ceases to hold, or may be removed from, office as deputy chair,”.
- (4) In paragraph 10, for “chairman” (wherever occurring) substitute “ chair ”.
- (5) For paragraph 11 substitute—

- “11
- (1) The Council may appoint the executive members referred to in paragraph 4(f) on such terms and conditions as the Council may determine.
 - (2) The executive members must be employees of the Council.
 - (3) Any decision of the Council under sub-paragraph (1) must be taken by the members appointed under paragraph 4(a) to (e).
 - (4) The Council may appoint such other employees as it considers appropriate on such terms and conditions as it may determine.”

- (6) In paragraph 16 after sub-paragraph (1) insert—

- “(1A) The report must state—
- (a) how the Council, in exercising its functions, has promoted the health, safety and well-being of patients and other members of the public, and
 - (b) how far, in the opinion of the Council, each regulatory body has complied with any duty imposed on it to promote the health, safety and well-being of such persons.”

Commencement Information

I5 S. 114 in force at 1.1.2009 in so far as not already in force by [S.I. 2008/3244](#), [art. 2\(b\)](#)

115 Powers and duties of Council

In section 26 of the 2002 Act (powers and duties of the Council: general), for subsection (4) substitute—

- “(4) Subsection (3) does not prevent the Council from—
- (a) taking action under section 28,

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- (b) where section 29 applies, taking action under that section after the regulatory body's proceedings have ended, or
- (c) investigating particular cases with a view to making general reports on the performance by the regulatory body of its functions or making general recommendations to the regulatory body affecting future cases.”

Commencement Information

I6 S. 115 in force at 1.1.2009 by [S.I. 2008/3244](#), [art. 2\(c\)](#)

116 Powers of Secretary of State and devolved administrations

(1) After section 26 of the 2002 Act insert—

“26A Powers of Secretary of State and devolved administrations

- (1) The Secretary of State, the Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may request the Council for advice on any matter connected with a profession appearing to the person making the request to be a health care profession; and the Council must comply with such a request.
 - (2) The Secretary of State, the Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may require the Council to investigate and report on a particular matter in respect of which the Council's functions are exercisable.
 - (3) In this section “the relevant Northern Ireland department” means the Department of Health, Social Services and Public Safety in Northern Ireland.”
- (2) In section 26 of the 2002 Act (powers and duties of the Council: general), omit subsections (7) and (8) (which are superseded by subsection (1) of this section).

Commencement Information

I7 S. 116 in force at 1.1.2009 by [S.I. 2008/3244](#), [art. 2\(c\)](#)

117 Duty to inform and consult the public

After section 26A of the 2002 Act insert—

“26B Duty to inform and consult the public

- (1) For the purpose of ensuring that members of the public are informed about the Council and the exercise by it of its functions, the Council must publish or provide in such manner as it thinks fit information about the Council and the exercise of its functions.
- (2) Nothing in subsection (1) authorises or requires the publication or provision of information if the publication or provision of that information—

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- (a) is prohibited by any enactment, or
 - (b) would constitute or be punishable as a contempt of court.
- (3) In subsection (2) “enactment” has the same meaning as in Part 2 of the Health and Social Care Act 2008.
- (4) The Council must from time to time seek the views of—
- (a) members of the public, and
 - (b) bodies which appear to the Council to represent the interests of patients, on matters relevant to the exercise by it of its functions.”

Commencement Information
I8 S. 117 in force at 1.1.2009 by [S.I. 2008/3244](#), [art. 2\(c\)](#)

118 Reference of cases by Council to court

- (1) Section 29 of the 2002 Act (reference of disciplinary cases by Council to court) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (a) substitute—
 - “(a) a direction of—
 - (i) the Health Committee of the Royal Pharmaceutical Society of Great Britain under article 51 of the Pharmacists and Pharmacy Technicians Order 2007 (powers concerning registration), or
 - (ii) the Disciplinary Committee of that Society under article 52 of that Order (powers concerning registration) or under section 80 of the Medicines Act 1968 (power to disqualify and direct removal from register),”
 - ^{F2}(b)
 - (c) in paragraph (e) omit the words from “(other than a determination” to the end,
 - ^{F3}(d)
 - (e) for paragraph (g) substitute—
 - “(g) any step taken—
 - (i) by the Professional Conduct Committee of the General Osteopathic Council under section 22 of the Osteopaths Act 1993 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
 - (ii) by the Health Committee of the General Osteopathic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee),”
 - (f) for paragraph (h) substitute—
 - “(h) any step taken—
 - (i) by the Professional Conduct Committee of the General Chiropractic Council under section 22 of

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the Chiropractors Act 1994 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or

(ii) by the Health Committee of the General Chiropractic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee),” , and

(g) for paragraph (j) substitute—

“(j) any corresponding measure taken in relation to a member of a profession regulated by the Health Professions Order 2001, under that Order.”

(3) For subsection (5) substitute—

“(5) In subsection (4), the “relevant court” —

- (a) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Scotland, means the Court of Session,
- (b) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Northern Ireland, means the High Court of Justice in Northern Ireland, and
- (c) in the case of any other person, means the High Court of Justice in England and Wales.”

(4) In subsection (6) for the words from “four weeks beginning with the last date” to the end substitute “ 40 days beginning with the day which is the last day on which the practitioner concerned can appeal against the relevant decision ”.

^{F4}(5)

^{F4}(6)

Textual Amendments

F2 S. 118(2)(b) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 73\(2\)](#); [S.I. 2012/1319](#), [art. 2\(3\)](#)

F3 S. 118(2)(d) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 73\(2\)](#); [S.I. 2012/1319](#), [art. 2\(3\)](#)

F4 S. 118(5)(6) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 73\(2\)](#); [S.I. 2012/1319](#), [art. 2\(3\)](#)

Commencement Information

I9 S. 118(1) in force at 1.1.2009 for specified purposes by [S.I. 2008/3244](#), [art. 2\(d\)](#)

I10 S. 118(2)(a)(c)(e)-(g) in force at 1.1.2009 by [S.I. 2008/3244](#), [art. 2\(e\)](#)

I11 S. 118(3)-(6) in force at 1.1.2009 by [S.I. 2008/3244](#), [art. 2\(f\)](#)

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Conduct and performance of medical practitioners and other health care workers

119 Responsible officers and their duties relating to medical profession

After Part 5 of the Medical Act 1983 (c. 54) insert—

“PART 5A

RESPONSIBLE OFFICERS

45A Requirement to nominate or appoint responsible officer

- (1) The appropriate authority may by regulations make provision for or in connection with requiring designated bodies to nominate or appoint persons who are to have such responsibilities as may be conferred on them by virtue of section 45B.
- (2) A person who is so nominated or appointed by a designated body is to be known as its responsible officer (but this is subject to any provision made by virtue of subsection (5)(e)).
- (3) In this Part “designated body” means—
 - (a) a body falling within any description of bodies prescribed for the purposes of this section, or
 - (b) any other body prescribed for those purposes.
- (4) The descriptions of bodies, or particular bodies, that may be so prescribed are descriptions of bodies, or particular bodies, appearing to the appropriate authority—
 - (a) to provide, or arrange for the provision of, health care, or
 - (b) to employ or contract with medical practitioners.
- (5) Regulations under this section may make provision—
 - (a) for conditions that must be satisfied in relation to a person if that person is to be nominated or appointed as, or remain as, a responsible officer of a designated body,
 - (b) authorising or requiring a designated body to nominate or appoint more than one responsible officer,
 - (c) for a single person to be nominated or appointed as the responsible officer for each of two or more designated bodies where those bodies are satisfied as to the prescribed matters,
 - (d) requiring a designated body that has a responsible officer to provide to the officer, or, if that designated body does not employ the officer, to the employer of the officer, funds and other resources necessary for enabling the officer to discharge the officer's prescribed responsibilities as a responsible officer for the designated body,
 - (e) for the persons nominated or appointed as mentioned in subsection (1) to be known by such name as is prescribed, and
 - (f) for making such amendments of any enactment as appear to the appropriate authority to be required in connection with any provision made by virtue of paragraph (e).

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- (6) The conditions imposed under subsection (5)(a) may in particular include a requirement for the designated body to consult the General Council before nominating or appointing any person as a responsible officer for the body.
- (7) Regulations under this section may in prescribed cases provide that a responsible officer for a designated body is to be nominated by the appropriate authority instead of the designated body.
- (8) In this section—
 - “enactment” includes any provision of, or any instrument made under, Northern Ireland legislation;
 - “health care” means services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness;
 - “illness” has the same meaning as in section 25(1) of the Health Act 2006.

45B Responsibilities of responsible officer

- (1) Regulations under section 45A may make provision for or in connection with—
 - (a) conferring on the responsible officer or officers for a designated body responsibilities relating to the evaluation of the fitness to practise of medical practitioners having a prescribed connection with that body, and
 - (b) requiring a responsible officer for a designated body to co-operate with the General Council, any of its committees, or any persons authorised by the General Council, in connection with the exercise by any of them of functions under Part 3A or 5 of this Act.
- (2) Where a designated body has more than one responsible officer, regulations under section 45A may make provision for or in connection with the division of prescribed responsibilities among those officers, including provision for the division to be determined by the designated body.
- (3) The power by virtue of subsection (1)(a) to prescribe the connection between a medical practitioner and a designated body includes, in particular, power to prescribe a connection based on any of the following circumstances—
 - (a) the practitioner being employed by the designated body,
 - (b) the practitioner providing services to the designated body,
 - (c) the practitioner being employed by a person who provides services to the designated body,
 - (d) the practitioner providing services in the geographical area in relation to which the designated body exercises functions in relation to the provision of the health service, or
 - (e) the practitioner being employed by or providing services to, or pursuant to arrangements made by, a body which is located in the geographical area in relation to which the designated body exercises functions in relation to the provision of the health service but is not itself a designated body.
- (4) A designated body may confer on any of its responsible officers such powers as it considers appropriate to enable the officer to discharge any of the officer's prescribed responsibilities as a responsible officer for the body.

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- (5) If a designated body requires any of its responsible officers to carry out any functions other than the officer's prescribed responsibilities, it must in doing so have regard to the officer's prescribed responsibilities.
- (6) In this section “the health service” means—
- (a) the health service as defined by section 275(1) of the National Health Service Act 2006 or section 206(1) of the National Health Service (Wales) Act 2006,
 - (b) the health service as defined by section 108(1) of the National Health Service (Scotland) Act 1978, or
 - (c) any of the health services under any enactment which extends to Northern Ireland and which corresponds to section 1(1) of the National Health Service Act 2006.

45C **Regulations under section 45A: further provisions**

- (1) Regulations under section 45A may—
- (a) create offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale, and
 - (b) create other procedures for enforcing any provisions of the regulations.
- (2) Regulations under section 45A may require a designated body or a responsible officer to have regard to any guidance given from time to time by the appropriate authority or any other prescribed person in relation to the nomination or appointment of responsible officers or their prescribed responsibilities.
- (3) Regulations under section 45A may make provision requiring—
- (a) a body which employs, or is provided with services by, a medical practitioner, or which arranges for others to be provided with services by a medical practitioner, but which is not a designated body, or
 - (b) a medical practitioner,
- to provide, to the responsible officer with prescribed responsibilities relating to that medical practitioner or to the designated body for which the officer is a responsible officer or, if that designated body does not employ the responsible officer, to the employer of the officer, funds and other resources necessary for enabling the responsible officer to discharge the officer's prescribed responsibilities relating to that medical practitioner.
- (4) Regulations under section 45A may make provision for or in connection with requiring prescribed persons to supply information or produce documents to a responsible officer in connection with the discharge of the prescribed responsibilities of the responsible officer.

45D **Crown application**

- (1) This Part binds the Crown.
- (2) No contravention by the Crown of any provision of this Part or regulations made under this Part makes the Crown criminally liable; but the High Court (or, in Scotland, the Court of Session) may declare unlawful any act or omission of the Crown which constitutes such a contravention.

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- (3) The provisions of this Part apply to persons in the service of the Crown as they apply to other persons.
- (4) Nothing in this section affects Her Majesty in her private capacity; and this subsection is to be read as if section 38(3) of the Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity) were contained in this Act.

45E Regulations under section 45A: supplementary provisions

- (1) The power of the Secretary of State to make regulations under section 45A is exercisable by statutory instrument.
- (2) Before making any regulations under section 45A, the Secretary of State must consult—
 - (a) the Scottish Ministers, if the regulations extend to Scotland, and
 - (b) the Welsh Ministers, if the regulations apply to Wales.
- (3) A statutory instrument that—
 - (a) contains regulations made by the Secretary of State under section 45A, and
 - (b) is not subject to a requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The Secretary of State may not make a statutory instrument containing (whether alone or with other provision) the first regulations under section 45A that include provision made by the Secretary of State by virtue of section 45B unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) The power of the Department of Health, Social Services and Public Safety in Northern Ireland to make regulations under section 45A is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (6) A statutory rule that—
 - (a) contains regulations made by the Department of Health, Social Services and Public Safety in Northern Ireland under section 45A, and
 - (b) is not subject to a requirement that a draft of the statutory rule be laid before, and approved by a resolution of, the Northern Ireland Assembly,is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (7) The Department of Health, Social Services and Public Safety in Northern Ireland may not make a statutory rule containing (whether alone or with other provision) the first regulations under section 45A that include provision made by the Department by virtue of section 45B unless a draft of the statutory rule has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

- (8) Regulations under section 45A may make different provision for different cases.

45F Interpretation of Part 5A

In this Part—

“the appropriate authority” means—

- (a) in relation to England and Wales or Scotland, the Secretary of State, or
- (b) in relation to Northern Ireland, the Department of Health, Social Services and Public Safety in Northern Ireland;

“designated body” has the meaning given by section 45A(3);

“prescribed” means prescribed by regulations under section 45A.”

Commencement Information

I12 S. 119 partly in force; S. 119 in force for specified purposes at Royal Assent, see s. 170

I13 S. 119 in force at 1.4.2010 for E.W.S. by [S.I. 2010/708](#), [art. 3\(a\)](#)

120 Additional responsibilities of responsible officers: England and Wales and Northern Ireland

- (1) Regulations under this section may confer on a responsible officer nominated or appointed for the purposes of regulations under section 45A of the Medical Act 1983 (c. 54) (requirement to nominate or appoint responsible officer) additional responsibilities that relate to—
- (a) the entry by the designated body into contracts of employment with medical practitioners or into contracts for the provision of services by such practitioners,
 - (b) the monitoring of the conduct or performance of medical practitioners who have a prescribed connection with the designated body, or
 - (c) ensuring that appropriate action is taken in response to concerns about such conduct or performance,
- but do not relate to the regulation under that Act of the medical profession.
- (2) Subject to subsection (3), the power to make regulations under this section is exercisable—
- (a) in relation to England, by the Secretary of State,
 - (b) in relation to Wales, by the Welsh Ministers, or
 - (c) in relation to Northern Ireland, by the Department of Health, Social Services and Public Safety in Northern Ireland.
- (3) In relation to cross-border bodies, the power to make regulations under this section is exercisable by the Secretary of State after consultation with the Welsh Ministers.
- (4) For the purposes of this section a “cross-border body” is a body which—
- (a) performs (and only performs) functions in respect of England and Wales, and
 - (b) does not perform functions mainly in respect of England or mainly in respect of Wales.

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- (5) Sections 45A(5)(d), 45B(2) to (5) and 45C(1), (3) and (4) of the Medical Act 1983 (c. 54) (provisions that may be included in regulations under section 45A of that Act and responsibilities of responsible officers) apply in relation to regulations under this section as they apply in relation to regulations under section 45A of that Act but as if—
 - (a) references to prescribed responsibilities were references to responsibilities conferred by regulations under this section,
 - (b) the reference in section 45B(2) to regulations under section 45A were a reference to regulations under this section, and
 - (c) the reference in section 45B(3) to subsection (1)(a) of that section were a reference to subsection (1)(b) of this section.
- (6) Subject to subsection (7), regulations under this section may require a designated body or a responsible officer to have regard to any guidance given from time to time by the Secretary of State, the Welsh Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland (as the case may be), or by any other person prescribed by the regulations, in relation to responsibilities conferred on responsible officers by the regulations.
- (7) In relation to cross-border bodies, the reference in subsection (6) to the Secretary of State is to be read as a reference to the Secretary of State after consultation with the Welsh Ministers.
- (8) Expressions used in this section and in Part 5A of the Medical Act 1983 (responsible officers) have the same meaning in this section as in that Part.

Commencement Information

- I14** S. 120 partly in force; s. 120 in force for specified purposes at Royal Assent, see s. 170
- I15** S. 120 in force at 1.4.2010 for E.W. by [S.I. 2010/708](#), [art. 3\(b\)](#)

121 Co-operation between prescribed bodies

- (1) The appropriate Minister may by regulations make provision for or in connection with requiring a designated body to co-operate with any other designated body in connection with—
 - (a) the sharing of information which relates to the conduct or performance of any health care worker and which may show that that worker is likely to constitute a threat to the health and safety of patients,
 - (b) the provision of information in response to requests for information from any other designated body about the conduct or performance of any health care worker,
 - (c) the consideration of any issues which arise as a result of the acts mentioned in paragraphs (a) and (b), and
 - (d) the taking of any prescribed steps following such consideration.
- (2) Regulations under this section may make provision requiring a designated body to disclose the information referred to in subsection (1)(a) and any information disclosed under subsection (1)(b) to any other designated body in prescribed circumstances, or in circumstances where it appears to that body that the prescribed conditions are satisfied, whether or not the disclosure of information has been requested.
- (3) Regulations under this section may—

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

- (a) create offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale, and
 - (b) create other procedures for enforcing any provisions of the regulations.
- (4) Regulations under this section may require a designated body to have regard to any guidance given from time to time by the appropriate Minister or any other prescribed person.
- (5) In making regulations under this section the appropriate Minister must have regard to the importance of avoiding unfair prejudice to health care workers against whom unsubstantiated allegations are made.
- (6) In this section—
- “the appropriate Minister” means the Secretary of State except that, in relation to co-operation by a Welsh health body or a Welsh social services body, it means the Welsh Ministers;
 - “designated body” means—
 - (a) any body which is a designated body for the purposes of Part 5A of the Medical Act 1983 (c. 54), and
 - (b) any other body prescribed for the purposes of this section;
 - “health care” has the meaning given by section 45A(8) of the Medical Act 1983;
 - “health care worker” means—
 - (a) any person who is a member of a prescribed profession concerned with the physical or mental health of individuals, or
 - (b) any person who—
 - (i) is employed by a designated body,
 - (ii) provides services to a designated body, or
 - (iii) is employed by a person who provides services to a designated body,
- for purposes connected with the provision of health care;
- “prescribed” means prescribed by regulations under this section;
 - “Welsh health body” means—
 - (a) a Welsh NHS body, as defined by section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), or
 - (b) any other person providing or arranging for the provision of health care in Wales;
 - “Welsh social services body” means—
 - (a) the council of a county or county borough in Wales, or
 - (b) a body engaged in the provision of Welsh local authority social services, as defined by section 148 of the Health and Social Care (Community Health and Standards) Act 2003.

Commencement Information

I16 S. 121 partly in force; s. 121 in force for specified purposes at Royal Assent, see s. 170

I17 S. 121 in force at 1.4.2010 by [S.I. 2010/708](#), [art. 3\(c\)](#)

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

122 Ss. 120 and 121: Crown application

- (1) Sections 120 and 121 bind the Crown.
- (2) No contravention by the Crown of any provision of either of those sections or regulations made under them makes the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) The provisions of those sections apply to persons in the service of the Crown as they apply to other persons.
- (4) Nothing in this section affects Her Majesty in her private capacity; and this subsection is to be read as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Act.

Commencement Information

I18 S. 122 in force at 1.4.2010 for E.W. by [S.I. 2010/708](#), [art. 3\(d\)](#)

Hearing Aid Council

123 Dissolution of Hearing Aid Council

- (1) The Hearing Aid Council is dissolved.
- (2) The Hearing Aid Council Act 1968 (c. 50) and the Hearing Aid Council (Extension) Act 1975 (c. 39) cease to have effect.
- (3) An order under section 170(3) may not appoint a day for the coming into force of—
 - (a) subsection (1), or
 - (b) subsection (2), so far as relating to the profession mentioned in section 60(2)(ca) of the Health Act 1999 (c. 8),unless the following conditions are met.
- (4) Those conditions are—
 - (a) that an Order in Council under section 60 of the Health Act 1999 (regulation of health care and associated professions) has made provision by virtue of subsection (2)(ca) of that section (regulation of dispensers of hearing aids), and
 - (b) that the day appointed under section 170(3) is not earlier than the day on which the Order in Council, so far as making such provision, comes into force.
- (5) The Secretary of State may by order make provision for the transfer of property, rights and liabilities of the Hearing Aid Council to any relevant regulatory body or to the Secretary of State.
- (6) For that purpose a “relevant regulatory body” is any body which under an Order in Council under section 60 of the Health Act 1999 (c. 8) is responsible for the regulation of the profession mentioned in subsection (2)(ca) of that section.

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

Commencement Information

- I19** S. 123 partly in force; S. 123 in force for specified purposes at Royal Assent, see s. 170
- I20** S. 123(1) in force at 1.8.2010 by [S.I. 2010/708](#), [art. 4\(2\)\(a\)](#)
- I21** S. 123(2) in force at 1.4.2010 for specified purposes by [S.I. 2010/708](#), [art. 4\(1\)\(a\)](#)
- I22** S. 123(2) in force at 1.8.2010 in so far as not already in force by [S.I. 2010/708](#), [art. 4\(2\)\(b\)](#)
- I23** S. 123(3)-(6) in force at 1.10.2008 in so far as not already in force by [S.I. 2008/2497](#), [art. 4](#)

Regulation of social care workforce

124 ^{F5}Regulation of social care workers: Wales

- (1) The ^{F6}Welsh Ministers may by regulations make provision modifying the regulation of social care workers, so far as appears to the ^{F6}Welsh Ministers to be necessary or expedient for the purpose of securing or improving ^{F7}the regulation of social care workers] or the services which they provide or to which they contribute.
- (2) Schedule 9 (which makes further provision about regulations under this section) has effect.
- (3) In this section and that Schedule—
- ^{F8}
...
- “social care worker” means a person who falls within any of paragraphs (a) to (d) of subsection (2) of, or paragraphs (a) to (g) of subsection (3) of, section 55 of the Care Standards Act 2000 (c. 14) (which sets out the persons who are, or may by virtue of regulations be treated as, social care workers for the purposes of Part 4 of that Act).
- (4) The references in subsection (1) to the regulation of social care workers include references to—
- (a) the regulation of social care workers of a description in relation to which no provision for registration for the time being applies,
 - (b) the regulation of those seeking registration as social care workers of any description or of persons who were, but are no longer, registered as social care workers of any description, and
 - (c) the regulation of activities carried on by persons who are not social care workers but which are carried on in connection with the activities carried on by social care workers.

Textual Amendments

- F5** S. 124 substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 45\(2\)](#); [S.I. 2012/1319](#), art. 2(4)
- F6** Words in s. 124(1) substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 45\(1\)\(a\)](#); [S.I. 2012/1319](#), art. 2(4)
- F7** Words in s. 124(1) substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 45\(1\)\(b\)](#); [S.I. 2012/1319](#), art. 2(4)
- F8** Words in s. 124(3) omitted (1.8.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 45\(1\)\(c\)](#); [S.I. 2012/1319](#), art. 2(4)

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

Commencement Information

I24 S. 124 partly in force; s. 124 in force for specified purposes at Royal Assent, see s. 170

PROSPECTIVE

^{F9}I25 Standard of proof in proceedings relating to registration of social care worker

.....

Textual Amendments

F9 S. 125 repealed (3.4.2017) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 58\(b\)](#); S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Approved mental health professionals

126 [^{F10}Education and training of approved mental health professionals: Wales]

- (1) The [^{F11}Welsh Ministers] may by regulations make provision modifying the functions of ^{F12}... the Care Council for Wales in relation to the education and training of persons who are or wish to become approved mental health professionals.
- (2) The power to make regulations under subsection (1) may be exercised by amending, repealing or applying (with or without modifications) any provision of any enactment and any other instrument or document.
- (3) Paragraphs 4 to 6 and 9 and 10 of Schedule 9 apply to the making of regulations under subsection (1) as they apply to the making of regulations under section 124 but as if the references in paragraphs 9 and 10 to social care workers were references to approved mental health professionals.
- (4) In this section—
 ^{F13}
 ...
 “approved mental health professional” has the same meaning as in section 114 of the Mental Health Act 1983 (c. 20);
 “functions” includes powers and duties.

Textual Amendments

- F10** S. 126 substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 47\(4\)](#); S.I. 2012/1319, art. 2(4)
- F11** Words in s. 126(1) substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 47\(2\)\(a\)](#); S.I. 2012/1319, art. 2(4)
- F12** Words in s. 126(1) omitted (1.8.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 47\(2\)\(b\)](#); S.I. 2012/1319, art. 2(4)
- F13** Words in s. 126(4) omitted (1.8.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 47\(3\)](#); S.I. 2012/1319, art. 2(4)

Status: Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2. (See end of Document for details)

Commencement Information

I25 S. 126 partly in force; s. 126 in force for specified purposes at Royal Assent, see s. 170

General

127 Further amendments relating to Part 2

Schedule 10 (which contains further amendments relating to this Part) has effect.

Commencement Information

I26 S. 127 in force at 25.8.2008 for specified purposes by [S.I. 2008/2214](#), [art. 2\(a\)](#)

I27 S. 127 in force at 1.1.2009 for specified purposes by [S.I. 2008/3244](#), [art. 2\(g\)](#)

I28 S. 127 in force at 1.1.2009 for specified purposes by [S.I. 2008/3244](#), [art. 3\(a\)](#)

I29 S. 127 in force at 4.6.2009 for specified purposes by [S.I. 2009/1310](#), [art. 2\(b\)](#)

I30 S. 127 in force at 28.9.2009 for specified purposes by [S.I. 2009/2567](#), [art. 2\(b\)](#)

I31 S. 127 in force at 25.1.2010 for specified purposes by [S.I. 2010/23](#), [art. 2\(f\)](#)

PROSPECTIVE

128 Interpretation of Part 2

In this Part—

“the 1999 Act” means the Health Act 1999 (c. 8);

“the 2002 Act” means the National Health Service Reform and Health Care Professions Act 2002 (c. 17);

“enactment” means an enactment contained in, or in an instrument made under—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation;

^{F14}
...

Textual Amendments

F14 Words in s. 128 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 75\(2\)](#); [S.I. 2012/1319](#), [art. 2\(3\)](#)

Status:

Point in time view as at 01/04/2014. This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Health and Social Care Act 2008, Part 2.