



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

#### REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

### CHAPTER 3

#### LICENSING

#### *Enforcement*

#### **106 Enforcement undertakings**

- (1) Monitor may accept an enforcement undertaking from a person if Monitor has reasonable grounds to suspect that the person—
  - (a) has provided, or is providing, a health care service for the purposes of the NHS in breach of the requirement to hold a licence under this Chapter,
  - (b) is a licence holder who has provided, or is providing, a health care service for the purposes of the NHS in breach of a condition of the licence, or
  - (c) is in breach of a requirement imposed by Monitor under section 104.
- (2) In this Chapter, “enforcement undertaking” means an undertaking from a person to take such action of a kind mentioned in subsection (3) as may be specified in the undertaking within such period as may be so specified.
- (3) The specified action must be—
  - (a) action to secure that the breach in question does not continue or recur,
  - (b) action to secure that the position is, so far as possible, restored to what it would have been if the breach in question was not occurring or had not occurred,
  - (c) action (including the payment of a sum of money) to benefit—
    - (i) any other licence holder affected by the breach, or

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*Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.*

*Changes to legislation: Health and Social Care Act 2012, Section 106 is up to date with all changes known to be in force on or before 13 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)*

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- (ii) any commissioner of health care services for the purposes of the NHS which is affected by the breach, or
  - (d) action of such a description as may be prescribed.
- (4) Where Monitor accepts an enforcement undertaking then, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it—
- (a) Monitor may not impose on that person any discretionary requirement which it would otherwise have power to impose by virtue of section 105 in respect of the breach to which the undertaking relates, and
  - (b) if the breach to which the undertaking relates falls within subsection (1)(b), Monitor may not revoke that person's licence under section 89(b).
- (5) Where a person from whom Monitor has accepted an enforcement undertaking has failed to comply fully with the undertaking but has complied with part of it, Monitor must take the partial compliance into account in deciding whether—
- (a) to impose a discretionary requirement on the person in respect of the breach to which the undertaking relates, or
  - (b) if the breach to which the undertaking relates falls within subsection (1)(b), to revoke the person's licence under section 89(b).

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**Commencement Information**

- I1** S. 106 partly in force; s. 106 in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)
- I2** S. 106(1)(b)(c)(2)-(5) in force at 1.4.2013 in so far as not already in force by [S.I. 2013/671](#), [art. 2\(3\)](#)

**Status:**

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