
DRAFT STATUTORY INSTRUMENTS

2010 No.

**The Health and Social Care Act 2008
(Regulated Activities) Regulations 2010**

PART 5

COMPLIANCE AND OFFENCES

Compliance with regulations

25. Where there is more than one registered person in respect of a regulated activity, or in respect of that activity as carried on at or from particular premises, anything which is required under these Regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

Guidance and Code

26.—(1) For the purposes of compliance with the requirements set out in these Regulations, the registered person must have regard to—

- (a) guidance issued by the Commission in relation to the requirements set out in Parts 3 and 4 (with the exception of regulation 12 in so far as it applies to health care associated infections); and
- (b) in relation to regulation 12, any Code of Practice issued by the Secretary of State in relation to the prevention or control of health care associated infections.

(2) For the purposes of paragraph (1)—

- (a) “guidance” means the guidance referred to in section 23 of the Act; and
- (b) “Code of Practice” means the code of practice referred to in section 21 of the Act.

Offences

27.—(1) A failure to comply with any of the provisions of regulations 9 to 24 shall be an offence.

(2) The Commission may not bring proceedings in respect of a failure by a registered person to comply with any of those provisions unless—

- (a) the alleged failure is one in respect of which the Commission has given a warning notice to the registered person under section 29 of the Act;
- (b) that warning notice specified a time within which the registered person must take action to secure compliance pursuant to section 29(2)(c)(ii) of the Act; and
- (c) the registered person did not secure compliance within the specified time.

(3) A person guilty of an offence under paragraph (1) is liable, on summary conviction, to a fine not exceeding £50,000.

(4) In any proceedings for an offence under this regulation, it is a defence for the registered person to prove that they took all reasonable steps or exercised all due diligence to ensure that the provision in question was complied with.