



Health and Social Care Act 2008

2008 CHAPTER 14

PART 2

REGULATION OF HEALTH PROFESSIONS AND HEALTH AND SOCIAL CARE WORKFORCE

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

II 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—

Changes to legislation: *There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: The Council for Healthcare Regulatory Excellence. (See end of Document for details)*

“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,
- (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

I2 S. 114 in force at 1.1.2009 in so far as not already in force by S.I. 2008/3244, art. 2(b)

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: The Council for Healthcare Regulatory Excellence. (See end of Document for details)

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,
 - (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

I3 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

I4 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—

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“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—
 - (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

I5 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),”
 - ^{F1}(b)
 - (c) in paragraph (e) omit the words from “(other than a determination” to the end,
 - ^{F2}(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

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- 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 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 ”.

^{F3}(5)

^{F3}(6)

Textual Amendments

- F1** 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)
- F2** 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)
- F3** 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)

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: The Council for Healthcare Regulatory Excellence. (See end of Document for details)

Commencement Information

- I6** S. 118(1) in force at 1.1.2009 for specified purposes by [S.I. 2008/3244](#), **art. 2(d)**
- I7** S. 118(2)(a)(c)(e)-(g) in force at 1.1.2009 by [S.I. 2008/3244](#), **art. 2(e)**
- I8** S. 118(3)-(6) in force at 1.1.2009 by [S.I. 2008/3244](#), **art. 2(f)**

Changes to legislation:

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Heading: The Council for Healthcare Regulatory Excellence.