



# Health and Social Care Act 2008

## 2008 CHAPTER 14

### PART 1

#### THE CARE QUALITY COMMISSION

### CHAPTER 6

#### MISCELLANEOUS AND GENERAL

##### *Further provisions about functions of Commission*

- <sup>F1</sup>82 [<sup>F1</sup>Failure by the Commission or Healthwatch England in discharge of functions]
- (1) The Secretary of State may give a direction to the Commission if the Secretary of State considers that the Commission—
- (a) is failing or has failed to discharge any of its functions, or
  - (b) is failing or has failed properly to discharge any of its functions [<sup>F2</sup> and that the failure is significant].
- [<sup>F3</sup>(1A) The Secretary of State may give a direction to the Healthwatch England committee if the Secretary of State considers that the committee—
- (a) is failing or has failed to discharge a function under section 45A or any other function it is required to discharge, or
  - (b) is failing or has failed properly to discharge a function under that section or any other function it is required to discharge,
- and that the failure is significant.]
- (2) A direction under subsection (1) [<sup>F4</sup> or (1A)] may direct the Commission [<sup>F5</sup> or (as the case may be) the committee] to discharge such of those functions, and in such manner and within such period or periods, as may be specified in the direction.
- [<sup>F6</sup>(2A) But the Secretary of State may not give a direction under subsection (1) [<sup>F7</sup> or (1A)] in relation to the performance of functions in a particular case.]

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Section 82. (See end of Document for details)*

- (3) If the Commission [<sup>F8</sup>or the committee] fails to comply with a direction under subsection (1) [<sup>F9</sup>or (1A)], the Secretary of State may—
- (a) discharge the functions to which the direction relates, or
  - (b) make arrangements for any other person to discharge them on the Secretary of State's behalf.
- [<sup>F10</sup>(4) Where the Secretary of State exercises a power under subsection (1) [<sup>F11</sup>, (1A)] or (3), the Secretary of State must publish the reasons for doing so.
- (5) For the purposes of this section a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred; and “ the health service ” has the same meaning as in the National Health Service Act 2006. ]

#### Textual Amendments

- F1** S. 82 substituted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(10\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F2** Words in s. 82(1) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 294\(1\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F3** S. 82(1A) inserted (27.3.2012 for specified purposes, 1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(5\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F4** Words in s. 82(2) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(6\)\(a\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F5** Words in s. 82(2) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(6\)\(b\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F6** S. 82(2A) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 294\(2\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F7** Words in s. 82(2A) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(7\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F8** Words in s. 82(3) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(8\)\(a\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F9** Words in s. 82(3) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(8\)\(b\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F10** S. 82(4)(5) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 294\(3\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F11** Words in s. 82(4) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 181\(9\), 306\(1\)\(d\), \(4\); S.I. 2012/1831, art. 2\(2\)](#)

#### Commencement Information

- I1** S. 82 in force at 1.10.2008 by [S.I. 2008/2497, art. 2\(i\)](#)

**Status:**

Point in time view as at 01/04/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the Health and Social Care Act 2008, Section 82.