



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 3

LICENSING

Licensing procedure

85 Application for licence

- (1) A person seeking to hold a licence under this Chapter must make an application to Monitor.
- (2) The application must be made in such form, and contain or be accompanied by such information, as Monitor requires.

86 Licensing criteria

- (1) Monitor must set and publish the criteria which must be met by a person in order for that person to be granted a licence under this Chapter.
- (2) Monitor may revise the criteria and, if it does so, must publish them as revised.
- (3) Monitor may not set or revise the criteria unless the Secretary of State has by order approved the criteria or (as the case may be) revised criteria.

87 Grant or refusal of licence

- (1) This section applies where an application for a licence has been made under section 85.

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- (2) If Monitor is satisfied that the applicant meets the criteria for holding a licence for the time being published under section 86 it must as soon as reasonably practicable grant the application; otherwise it must refuse it.
- (3) On granting the application, Monitor must issue a licence to the applicant.
- (4) A licence issued under this section is subject to—
 - (a) such of the standard conditions (see section 94) as are applicable to the licence,
 - (b) such other conditions included in the licence by virtue of section 95 (referred to in this Chapter as “the special conditions”), and
 - (c) any conditions included in the licence by virtue of section 111 (imposition of licence conditions on NHS foundation trusts during transitional period).

88 Application and grant: NHS foundation trusts

- (1) This section applies where an NHS trust becomes an NHS foundation trust pursuant to section 36 of the National Health Service Act 2006 (effect of authorisation of NHS foundation trust).
- (2) The NHS foundation trust is to be treated by Monitor as having—
 - (a) duly made an application for a licence under section 85, and
 - (b) met the criteria for holding a licence for the time being published under section 86.
- (3) An NHS foundation trust in existence on the day on which this section comes into force is to be treated for the purposes of this section as having become an NHS foundation trust pursuant to section 36 of the National Health Service Act 2006 on that day.

89 Revocation of licence

Monitor may at any time revoke a licence under this Chapter—

- (a) on the application of the licence holder, or
- (b) if Monitor is satisfied that the licence holder has failed to comply with a condition of the licence.

90 Right to make representations

- (1) Monitor must give notice—
 - (a) to an applicant for a licence under this Chapter of a proposal to refuse the application;
 - (b) to the licence holder of a proposal to revoke a licence under section 89(b).
- (2) A notice under this section must—
 - (a) set out Monitor’s reasons for its proposal;
 - (b) specify the period within which representations with respect to the proposal may be made to Monitor.
- (3) The period so specified must be not less than 28 days beginning with the day after that on which the notice is received.

91 Notice of decisions

- (1) This section applies if Monitor decides to—
 - (a) refuse an application for a licence under section 87, or
 - (b) revoke a licence under section 89(b).
- (2) Monitor must give notice of its decision to the applicant or the licence holder (as the case may be).
- (3) A notice under this section must explain the right of appeal conferred by section 92.
- (4) A decision of Monitor to revoke a licence under section 89(b) takes effect on such day as may be specified by Monitor, being a day no earlier than—
 - (a) if an appeal is brought under section 92, the day on which the decision on appeal is confirmed or the appeal is abandoned,
 - (b) where the licence holder notifies Monitor before the end of the period for bringing an appeal under section 92 that the licence holder does not intend to appeal, the day on which Monitor receives the notification, or
 - (c) the day after that period.

92 Appeals to the Tribunal

- (1) An appeal lies to the First-tier Tribunal against a decision of Monitor to—
 - (a) refuse an application for a licence under section 87, or
 - (b) revoke a licence under section 89(b).
- (2) The grounds for an appeal under this section are that the decision was—
 - (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unreasonable.
- (3) On an appeal under this section, the First-tier Tribunal may—
 - (a) confirm Monitor's decision,
 - (b) direct that the decision is not to have effect, or
 - (c) remit the decision to Monitor.

93 Register of licence holders

- (1) Monitor must maintain and publish a register of licence holders.
- (2) The register may contain such information as Monitor considers appropriate for the purpose of keeping members of the public informed about licence holders including, in particular, information about the revocation of any licence under this Chapter.
- (3) Monitor must secure that copies of the register are available at its offices for inspection at all reasonable times by any person.
- (4) Any person who asks Monitor for a copy of, or an extract from, the register is entitled to have one.
- (5) Regulations may provide that subsections (3) and (4) do not apply—
 - (a) in such circumstances as may be prescribed, or
 - (b) to such parts of the register as may be prescribed.

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- (6) A fee determined by Monitor is payable for the copy or extract except—
- (a) in such circumstances as may be prescribed, or
 - (b) in any case where Monitor considers it appropriate to provide the copy or extract free of charge.