



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

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

### CHAPTER 3

#### LICENSING

##### *Licensing requirement*

#### **81 Requirement for health service providers to be licensed**

- (1) Any person who provides a health care service for the purposes of the NHS must hold a licence under this Chapter.
- (2) Regulations may make provision for the purposes of this Chapter for determining, in relation to a service provided by two or more persons acting in different capacities, which of those persons is to be regarded as the person who provides the service.

#### **Annotations:**

#### **Commencement Information**

- II** [S. 81](#)  
partly in force;  
[s. 81](#)  
in force for specified purposes at Royal Assent, see  
[s. 306\(1\)\(d\)](#)

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Social Care Act 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

## **82 Deemed breach of requirement to be licensed**

- (1) This section applies where a licence holder—
  - (a) in providing a health care service for the purposes of the NHS, carries on a regulated activity (within the meaning of Part 1 of the Health and Social Care Act 2008), but
  - (b) is not registered under Chapter 2 of Part 1 of that Act in respect of the carrying on of that activity.
- (2) The licence holder is to be regarded as providing the service in breach of the requirement under section 81 to hold a licence.

## **83 Exemption regulations**

- (1) Regulations (referred to in this section and section 84 as “exemption regulations”) may provide for the grant of exemptions from the requirement under section 81 in respect of—
  - (a) a prescribed person or persons of a prescribed description;
  - (b) the provision of a prescribed health care service or a health care service of a prescribed description.
- (2) Exemption regulations may grant an exemption—
  - (a) either generally or to the extent prescribed;
  - (b) either unconditionally or subject to prescribed conditions;
  - (c) indefinitely, for a prescribed period or for a period determined by or under the exemption.
- (3) Conditions subject to which an exemption may be granted include, in particular, conditions requiring any person providing a service pursuant to the exemption—
  - (a) to comply with any direction given by Monitor about such matters as are specified in the exemption or are of a description so specified,
  - (b) except to the extent that Monitor otherwise approves, to do, or not to do, such things as are specified in the exemption or are of a description so specified (or to do, or not to do, such things in a specified manner), and
  - (c) to refer for determination by Monitor such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (4) Before making exemption regulations the Secretary of State must give notice to—
  - (a) Monitor,
  - (b) the National Health Service Commissioning Board, and
  - (c) the Care Quality Commission and its Healthwatch England committee.
- (5) The Secretary of State must also publish a notice under subsection (4).
- (6) A notice under subsection (4) must—
  - (a) state that the Secretary of State proposes to make exemption regulations and set out their proposed effect,

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- (b) set out the Secretary of State's reasons for the proposal, and
  - (c) specify the period (“the notice period”) within which representations with respect to the proposal may be made.
- (7) The notice period must be not less than 28 days beginning with the day after that on which the notice is published under subsection (5).
- (8) Where an exemption is granted the Secretary of State—
- (a) if the exemption is granted to a prescribed person, must give notice of it to that person, and
  - (b) must publish the exemption.

**Annotations:**

**Commencement Information**

- I2** [S. 83](#)  
partly in force;  
[s. 83](#)  
in force for specified purposes at Royal Assent, see  
[s. 306\(1\)\(d\)](#)

**84 Exemption regulations: supplementary**

- (1) Regulations may revoke exemption regulations by which an exemption was granted to a person, or amend such regulations by which more than one exemption was so granted so as to withdraw any of the exemptions—
- (a) at the person's request,
  - (b) in accordance with any provision of the exemption regulations by which the exemption was granted, or
  - (c) if the Secretary of State considers it to be inappropriate for the exemption to continue to have effect.
- (2) Regulations may revoke exemption regulations by which an exemption was granted to persons of a prescribed description, or amend such regulations by which more than one exemption was so granted so as to withdraw any of the exemptions—
- (a) in accordance with any provision of the exemption regulations by which the exemption was granted, or
  - (b) if the Secretary of State considers it to be inappropriate for the exemption to continue to have effect.
- (3) The Secretary of State may by direction withdraw an exemption granted to persons of a description prescribed in exemption regulations for any person of that description—
- (a) at the person's request,
  - (b) in accordance with any provision of the exemption regulations by which the exemption was granted, or
  - (c) if the Secretary of State considers it to be inappropriate for the exemption to continue to have effect in the case of the person.
- (4) Subsection (5) applies where the Secretary of State proposes to—
- (a) make regulations under subsection (1)(b) or (c) or (2), or
  - (b) give a direction under subsection (3)(b) or (c).

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- (5) The Secretary of State must—
- (a) consult the following about the proposal—
    - (i) Monitor;
    - (ii) the National Health Service Commissioning Board;
    - (iii) the Care Quality Commission and its Healthwatch England committee;
  - (b) where the Secretary of State is proposing to make regulations under subsection (1)(b) or (c), give notice of the proposal to the person to whom the exemption was granted;
  - (c) where the Secretary of State is proposing to make regulations under subsection (2), publish the notice;
  - (d) where the Secretary of State is proposing to give a direction under subsection (3)(b) or (c), give notice of the proposal to the person from whom the Secretary of State proposes to withdraw the exemption.
- (6) The notice must—
- (a) state that the Secretary of State proposes to make the regulations or give the direction (as the case may be),
  - (b) set out the Secretary of State's reasons for the proposal, and
  - (c) specify the period within which representations with respect to the proposal may be made.
- (7) The period so specified must be not less than 28 days beginning with the day after that on which the notice is received or (as the case may be) published.

**Annotations:**

**Commencement Information**

- I3** [S. 84](#)  
partly in force;  
[s. 84](#)  
in force for specified purposes at Royal Assent, see  
[s. 306\(1\)\(d\)](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657](#) art. 15

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 9 Ch. 1A inserted by [2015 c. 28](#) s. 2
- s. 58(6)(c) inserted by [2013 c. 32](#) Sch. 12 para. 103
- s. 73(3A) inserted by [S.I. 2014/892](#) Sch. 1 para. 189(5)
- s. 80(3) inserted by [S.I. 2014/892](#) Sch. 1 para. 192(3)
- s. 101(4A) inserted by [2013 c. 24](#) Sch. 6 para. 128(4)
- s. 105(3A) (3B) inserted by [2013 c. 24](#) Sch. 14 para. 21
- s. 106(3A) (3B) inserted by [2013 c. 24](#) Sch. 14 para. 22
- s. 111(2A) inserted by [2014 c. 23](#) s. 83(2)
- s. 120(5A) inserted by [2013 c. 24](#) Sch. 6 para. 131(4)
- s. 142(4A) inserted by [2013 c. 24](#) Sch. 6 para. 135(3)

- s. 251A(7)(a) words substituted by  
2018 c. 12  
Sch. 19  
para. 173(2)
- s. 251A(9) inserted by  
2018 c. 12  
Sch. 19  
para. 173(3)
- s. 251B inserted by  
2015 c. 28  
s. 3
- s. 251B(5)(a) words substituted by  
2018 c. 12  
Sch. 19  
para. 174(2)
- s. 251B(7) inserted by  
2018 c. 12  
Sch. 19  
para. 174(3)
- s. 251C inserted by  
2015 c. 28  
s. 4
- s. 251C modified (temp.) by  
S.I. 2015/1438  
reg. 4
- s. 253(1)(ca) inserted by  
2014 c. 23  
s. 122(2)
- s. 261(1A) inserted by  
2014 c. 23  
s. 122(3)
- s. 262A inserted by  
2014 c. 23  
s. 122(4)
- s. 290(3)(ca) inserted by  
2014 c. 23  
Sch. 5  
para. 15(3)
- Sch. 8 para. 11(2A) inserted by  
2013 c. 24  
Sch. 15  
para. 49
- Sch. 10 para. 10(2A) inserted by  
S.I. 2014/892  
Sch. 1  
para. 195(4)
- Sch. 10 para. 10(3)(aa) inserted by  
S.I. 2014/892  
Sch. 1  
para. 195(5)
- Sch. 14 para. 16(1) Sch. 14 para. 16 renumbered as Sch. 14 para. 16(1) by  
2014 c. 23  
s. 120(18)(e)
- Sch. 14 para. 24(2A) inserted by  
2014 c. 23  
s. 84(8)
- Sch. 14 para. 4A 4B inserted by  
2014 c. 23

- s. 120(18)(a)  
Sch. 14 para. 15(8) inserted by  
2014 c. 23
- s. 120(18)(d)  
Sch. 14 para. 16(2)-(4) inserted by  
2014 c. 23
- s. 120(18)(e)  
Sch. 14 para. 17(4A) inserted by  
2014 c. 23
- s. 120(18)(g)  
Sch. 14 para. 24(2A) inserted by  
2014 c. 23
- s. 120(18)(h)  
Sch. 14 para. 24A inserted by  
2014 c. 23
- s. 120(18)(i)  
Sch. 14 para. 35(e) and word inserted by  
2014 c. 23
- s. 120(18)(j)