Health and Social Care Act 2012

2012 CHAPTER 7

PART 11

MISCELLANEOUS

The Care Quality Commission

294 Failure to discharge functions

(1) In section 82 of the Health and Social Care Act 2008 (failure by Commission to discharge functions), in subsection (1), at the end insert ",

and that the failure is significant."

(2) After subsection (2) of that section insert—

"(2A) But the Secretary of State may not give a direction under subsection (1) in relation to the performance of functions in a particular case."

(3) After subsection (3) of that section insert—

"(4) Where the Secretary of State exercises a power under subsection (1) 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."

(4) In section 161 of that Act (orders, regulations and directions: general provisions), in subsection (3), before "any power of the Secretary of State to give directions" insert "(subject to section 82(2A))".

Changes to legislation: *Health and Social Care Act 2012, Section 294 is up to date with all changes known to be in force on or before 27 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) In section 165 of that Act (directions), at the beginning of subsection (2) insert "Subject to subsection (3),".

(6) After that subsection insert—

"(3) A direction under section 82 must be given by regulations or by an instrument in writing."

Commencement Information

I1 S. 294 partly in force; s. 294 in force for specified purposes at Royal Assent, see s. 306(1)(d)

I2 S. 294 in force at 1.10.2012 in so far as not already in force by S.I. 2012/1831, **art. 2(2)**

Changes to legislation:
Health and Social Care Act 2012, Section 294 is up to date with all changes known to be in force on or before 27 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

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. 1B inserted by 2022 c. 31 s. 96
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by S.I. 2019/1245 reg. 28 (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- 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. 250(2)-(2B) substituted for s. 250(2) by 2022 c. 31 s. 95(2)(a)
- s. 250(6)-(6D) substituted for s. 250(6) by 2022 c. 31 s. 95(2)(d)
- s. 251251ZA substituted for s. 251 by 2022 c. 31 s. 95(3)
- s. 251C(6A) inserted by 2022 c. 31 s. 95(4)(a)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by 2022 c. 31 s. 98(b)
- s. 259(1)(aa) words substituted by S.I. 2023/98 Sch. para. 17(11)(a)(iii) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by 2022 c. 31 s. 98(h)
- s. 304(5)(ja) inserted by 2022 c. 31 s. 95(5)