



# 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*

#### **81 Publication of programme of reviews etc.**

- (1) The Commission must from time to time prepare and publish a document setting out—
  - (a) the special reviews and investigations that it proposes to conduct under section 48,
  - (b) the studies that it proposes to undertake under section 54, and
  - (c) the reviews that it proposes to conduct under section 57.
- (2) Before preparing a document under subsection (1) the Commission must consult—
  - (a) the Secretary of State,
  - [<sup>F1</sup>(aa) [<sup>F2</sup>NHS England],] and
  - (b) any other person or body specified by an order made by the Secretary of State, and it must send each of those persons or bodies a copy of the document once it is prepared.
- (3) The Commission may determine that any document or combination of documents prepared for the purposes of any other enactment or enactments is to be treated as a document prepared for the purposes of subsection (1) (so long as the requirements of subsection (2) are complied with in relation to the document or documents concerned).
- (4) Nothing in a document published under subsection (1) is to be regarded—

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- (a) as affecting any power of the Secretary of State to require a review or investigation to be conducted or a study to be undertaken, or
- (b) as preventing the Commission from conducting an investigation under section 48 where the Commission considers there to be a risk to the health, safety or welfare of persons receiving health or social care.

#### Textual Amendments

- F1** S. 81(2)(aa) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 165](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F2** Words in s. 81 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

#### Commencement Information

- I1** S. 81 partly in force; S. 81 in force for specified purposes at Royal Assent, see s. 170
- I2** S. 81 in force at 1.10.2008 in so far as not already in force by [S.I. 2008/2497](#), [art. 2\(i\)](#)

### **<sup>F3</sup>82 [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>F4</sup> and that the failure is significant.].
- [<sup>F5</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>F6</sup>or (1A)] may direct the Commission [<sup>F7</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>F8</sup>(2A) But the Secretary of State may not give a direction under subsection (1) [<sup>F9</sup>or (1A)] in relation to the performance of functions in a particular case.]
- (3) If the Commission [<sup>F10</sup>or the committee] fails to comply with a direction under subsection (1) [<sup>F11</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>F12</sup>(4) Where the Secretary of State exercises a power under subsection (1) [<sup>F13</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

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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

- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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

- I3** S. 82 in force at 1.10.2008 by [S.I. 2008/2497](#), **art. 2(i)**

### 83 Reports for each financial year etc.

(1) As soon as possible after the end of each financial year, the Commission must make a report on each of the following matters—

- (a) the way in which it has exercised its functions during the year,
- (b) the provision of NHS care during the year,
- (c) the provision of adult social services during the year,
- (d) the carrying on of regulated activities during the year, and
- (e) the steps taken by it during the year to implement the proposals in its statement under section 5 (statement on user involvement).

[<sup>F14</sup>(1A) The reference in subsection (1)(a) to the Commission's functions does not include a reference to its functions under section 45A.]

(2) The Commission may comply with subsection (1) by preparing a single document or separate documents on each of the matters mentioned there.

[<sup>F15</sup>(2A) The reports under subsection (1)(b) and (c) must, in particular, set out (and identify as such) the contents of the report made by the Healthwatch England committee under section 45C(1)(a) in respect of the year concerned.]

**Changes to legislation:** There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: Further provisions about functions of Commission. (See end of Document for details)

F16(3) .....

- (4) The Commission must—
- (a) lay before Parliament a copy of each report made under subsection (1), and
  - (b) send a copy of each such report to the Secretary of State.
- (5) The Commission must also provide the Secretary of State with such reports and information relating to the exercise of its functions as the Secretary of State may from time to time request.
- (6) Subsection (1)(a) does not apply to the Commission's functions under the Mental Health Act 1983 (c. 20).
- (7) In this section, “financial year” means—
- (a) the period beginning with the date on which the Commission is established and ending with the next 31 March following that date, and
  - (b) each successive period of 12 months ending with 31 March.

#### Textual Amendments

- F14** S. 83(1A) 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(11)**, 306(1)(d), (4); [S.I. 2012/1831](#), art. 2(2)
- F15** S. 83(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(12)**, 306(1)(d), (4); [S.I. 2012/1831](#), art. 2(2)
- F16** S. 83(3) omitted (1.10.2014) by virtue of [Care Act 2014 \(c. 23\)](#), **ss. 90(8)**, 127(1); [S.I. 2014/2473](#), art. 3(e)

#### Commencement Information

- I4** S. 83 in force at 1.10.2008 by [S.I. 2008/2497](#), **art. 2(i)**

## 84 Reports and information

- (1) Subsections (2) and (3) apply to a report published by the Commission under any provision of this Part or of the Mental Health Act 1983.
- (2) The Commission must make copies of the report available for inspection at its offices by any person at any reasonable time.
- (3) Any person who requests a copy of the report is entitled to have one on payment of such reasonable fee (if any) as the Commission considers appropriate.
- (4) The Commission may charge a person such reasonable fee as it considers appropriate where it provides the person, on request, with any other information relevant to the exercise of the Commission's functions under this Part.

#### Commencement Information

- I5** S. 84 in force at 1.4.2009 by [S.I. 2009/462](#), art. 2(1), **Sch. 1 para. 27**

**Changes to legislation:**

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