



# Health and Social Care Act 2008

## 2008 CHAPTER 14

### PART 1

#### THE CARE QUALITY COMMISSION

### CHAPTER 6

#### MISCELLANEOUS AND GENERAL

##### *Powers of entry etc.*

## **62 Entry and inspection**

- (1) The power in subsection (2) is exercisable if the Commission considers it necessary or expedient for the purposes of any of its regulatory functions.
- (2) A person authorised by the Commission may enter and inspect any premises which are, or which the person reasonably believes to be, regulated premises.
- (3) Premises are “regulated premises” if they fall within one or more of the following descriptions—
  - (a) they are used for the carrying on of a regulated activity,
  - (b) they are owned or controlled by an English NHS body or English local authority, or
  - (c) they are used or proposed to be used for or in connection with—
    - (i) the provision of NHS care,
    - (ii) the exercise of any functions of an English NHS body, or
    - (iii) the provision of adult social services.
- (4) If NHS care or an adult social service is provided to a person in premises used wholly or mainly as a private dwelling, the premises are not to be regarded as used for or in connection with the provision of that care or service.

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- (5) A person who proposes to exercise the power conferred by subsection (2) must if so required produce some duly authenticated document showing the person's authority to exercise the power.
- (6) “Premises” includes a vehicle.

**Modifications etc. (not altering text)**

- C1** Pt. 1 excluded (6.4.2010) by [The Health and Social Care Act 2008 \(Commencement No.16, Transitory and Transitional Provisions\) Order 2010 \(S.I. 2010/807\)](#), arts. 1(1)(a), [17\(4\)\(c\)\(5\)\(b\)](#)
- C2** Pt. 1 excluded (6.4.2010) by [The Health and Social Care Act 2008 \(Commencement No.16, Transitory and Transitional Provisions\) Order 2010 \(S.I. 2010/807\)](#), arts. 1(1)(a), [14\(4\)\(c\)](#)
- C3** [S. 62](#) applied (9.11.2015) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2015 \(S.I. 2015/1792\)](#), reg. 1(1), [Sch. para. 5](#)

**Commencement Information**

- I1** [S. 62](#) in force at 12.1.2009 for specified purposes by [S.I. 2008/3168](#), [art. 2](#)
- I2** [S. 62](#) in force at 6.4.2010 in so far as not already in force by [S.I. 2010/807](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (with [Pt. 3](#))

**63 Entry and inspection: supplementary**

- (1) This section applies where a person (“A”) is authorised by virtue of section 62 to enter and inspect premises.
- (2) If A considers it necessary or expedient for relevant purposes, A may—
- (a) make any examination into the state and management of the premises or the treatment of persons receiving care there,
  - (b) inspect and take copies of any documents or records,
  - (c) have access to, and check the operation of, any computer, and any associated apparatus or material, which is or has been in use in connection with any documents or records,
  - (d) inspect any other item,
  - (e) seize and remove from the premises any documents, records or other items,
  - (f) interview in private—
    - (i) any person who carries on or manages a regulated activity, or who manages the provision of NHS care or adult social services, at the premises,
    - (ii) any person working at the premises, and
    - (iii) any person receiving care at the premises who consents to be interviewed, and
  - (g) if the conditions in subsection (3) are met, examine in private any person receiving care at the premises.
- (3) The conditions are—
- (a) A is a registered medical practitioner or registered nurse,
  - (b) A has reason to believe that the person to be examined is not receiving proper care at the premises, and
  - (c) the person to be examined—
    - (i) is capable of giving consent to the examination and does so, or

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- (ii) is incapable of giving consent to the examination.
- (4) The power under subsection (2)(b) includes power—
- (a) to require any person holding or accountable for documents or records (whether or not kept at the premises) to produce them for inspection at the premises, and
  - (b) to require any records which are kept by means of a computer to be produced in a form in which they are legible and can be taken away.
- (5) The power under subsection (2)(f)(i) to interview a person in private includes power, in the case of a body corporate, to interview in private—
- (a) any director, manager, secretary or other similar officer of the body corporate, and
  - (b) where the body is an English NHS body or English local authority, any officer or member of the NHS body or local authority.
- (6) A may—
- (a) require any person to afford A such facilities and assistance with respect to matters within the person's control as are necessary to enable A to exercise powers under section 62 and this section, and
  - (b) take such measurements and photographs, and make such recordings, as A considers necessary to enable A to exercise those powers.
- (7) A person who without reasonable excuse—
- (a) obstructs the exercise of a power conferred by section 62 or this section, or
  - (b) fails to comply with a requirement imposed under this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In this section—
- (a) “relevant purposes” means the purposes of any of the Commission's regulatory functions,
  - (b) any reference to documents or records includes a reference to personal and medical records, and
  - (c) any reference to a person receiving care at premises includes a reference to a person who is accommodated there.

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**Modifications etc. (not altering text)**

- C4** S. 63 applied (9.11.2015) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2015 \(S.I. 2015/1792\)](#), reg. 1(1), [Sch. para. 5](#)
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**Commencement Information**

- I3** S. 63 in force at 12.1.2009 for specified purposes by [S.I. 2008/3168](#), [art. 2](#)
- I4** S. 63 in force at 6.4.2010 in so far as not already in force by [S.I. 2010/807](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (with [Pt. 3](#))

**64 Power to require documents and information etc.**

- (1) The Commission may require any person mentioned in subsection (2) to provide it with any information, documents, records (including personal and medical records)

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or other items which the Commission considers it necessary or expedient to have for the purposes of any of its regulatory functions.

- (2) The persons are—
- (a) an English NHS body,
  - (b) a person providing health care commissioned by <sup>F1</sup>—
    - (i) <sup>F2</sup>NHS England],
    - <sup>F3</sup>(ii) an integrated care board,] or
    - (iii) <sup>F4</sup>...
  - (c) an English local authority,
  - (d) a person providing adult social services commissioned by an English local authority, <sup>F5</sup> ...
  - (e) a person who carries on or manages a regulated activity, <sup>F6</sup>...
  - <sup>F6</sup>(f) .....
- (3) The power in subsection (1) to require the provision of information, documents or records includes, in relation to information, documents or records kept by means of a computer, power to require the provision of the information, documents or records in legible form.
- (4) A person who without reasonable excuse fails to comply with a requirement imposed under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Textual Amendments

- F1** Words in s. 64(2)(b) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 162\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** Words in s. 64 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)
- F3** S. 64(2)(b)(ii) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 166](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Words in s. 64(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 162\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Word in s. 64(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 19 para. 11\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** S. 64(2)(f) and word omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 13](#) (with reg. 3)

#### Modifications etc. (not altering text)

- C5** S. 64 restricted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), [ss. 92\(9\)](#), 127(1); S.I. 2015/993, art. 2(w) (with transitional provisions in S.I. 2015/995)
- C6** S. 64 applied (9.11.2015) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2015 \(S.I. 2015/1792\)](#), reg. 1(1), [Sch. para. 5](#)

#### Commencement Information

- I5** S. 64 in force at 12.1.2009 for specified purposes by S.I. 2008/3168, [art. 2](#)
- I6** S. 64 in force at 6.4.2010 in so far as not already in force by S.I. 2010/807, art. 2(1), [Sch. 1 para. 13](#) (with Pt. 3)

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## **65 Power to require explanation**

- (1) The Secretary of State may by regulations make provision requiring prescribed persons to provide an explanation of any relevant matter to the Commission, or to persons authorised by the Commission, in circumstances where the Commission considers the explanation necessary or expedient for the purposes of any of its regulatory functions.
- (2) “Relevant matter” means—
  - (a) any documents, records or other items inspected, copied or provided under sections 62 to 64,
  - (b) any information provided under those sections,
  - (c) any documents, records, other items or information otherwise provided to the Commission by any person for the purposes of the Commission's regulatory functions, or
  - (d) any matters which are the subject of the exercise of any such functions.
- (3) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the Commission.
- (4) A person who without reasonable excuse fails to comply with a requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Commencement Information**

- 17** S. 65 partly in force; S. 65 in force for specified purposes at Royal Assent, see s. 170
- 18** S. 65 in force at 12.1.2009 for specified purposes by [S.I. 2008/3168](#), [art. 2](#)
- 19** S. 65 in force at 6.4.2010 in so far as not already in force by [S.I. 2010/807](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (with [Pt. 3](#))

**Changes to legislation:**

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