



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))”.

Status: This is the original version (as it was originally enacted).

- (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.”