

# CARE ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Care standards**

#### **False or misleading information**

#### *Section 93 – Penalties*

524. This section provides for the penalties applicable when a court decides that a care provider, or subject to section 94, a director, manager, secretary or similar officer of a care provider, has committed the offence of providing false or misleading information. When the care provider is a local authority, the penalties are applicable to a member of the authority (see section 94).
525. *Subsection (1)* states that a person convicted of providing false and misleading information could be subject to an unlimited fine or up to two years imprisonment, or both.
526. *Subsection (2)* states that as well as, or instead of, a fine the court may also impose a remedial or publicity order by way of penalty on the care provider. Section 94(2) and (8) respectively provide that remedial or publicity orders are not applicable penalties in relation to a director, manager, secretary or similar officer of a body corporate and in relation to an officer of an incorporated association or a member of its governing body.
527. *Subsection (3)* states that a remedial order will permit the court to require the convicted care provider to take certain steps to remedy the breach that led to the conviction; this includes correcting any deficiencies in conduct, management of information, policies, systems or practices. *Subsection (5)* outlines the procedures to be followed in obtaining a remedial order. The prosecution must apply to the court and suggest the terms of the proposed order, and the court must consider the representations made on behalf of both the prosecution and the convicted care provider and any evidence presented by either party.
528. *Subsection (4)* concerns publicity orders, which require a convicted care provider to publicise information about the offence, including the particulars of that offence, and details of any fines or remedial orders made.
529. For both remedial orders and publicity orders, a time period must be stated within which the required actions must have been completed (*subsections (6) and (7)*).
530. Breach of either a remedial order or a publicity order would result in a further offence and further punishment on conviction by an unlimited fine.