



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 11

#### MISCELLANEOUS

##### *Duties to co-operate*

#### **288 Monitor: duty to co-operate with Care Quality Commission**

- (1) [<sup>F1</sup>NHS England] must co-operate with the Care Quality Commission in the exercise of their respective functions.
  - (2) In particular [<sup>F2</sup>NHS England] must—
    - (a) give the Commission any [<sup>F3</sup>relevant] information [<sup>F2</sup>NHS England] has about the provision of health care services which [<sup>F2</sup>NHS England] or the Commission considers would assist the Commission in the exercise of its functions,
    - (b) make arrangements with the Commission to ensure that—
      - (i) a person applying both for a licence under Chapter 3 of Part 3 and to be registered under the Health and Social Care Act 2008 may do so by way of a single application form,
      - (ii) such a person is granted a licence under that Chapter and registration under that Act by way of a single document, and
    - (c) seek to secure that the conditions included in a licence under that Chapter in a case within paragraph (b) are consistent with any conditions on the person's registration under that Act.
- [<sup>F4</sup>(2A) In subsection (2)(a) “relevant information” means information held by NHS England in connection with—
- (a) its regulatory functions, within the meaning given by section 13SB(2) of the National Health Service Act 2006, or
  - (b) its functions under section 27A of the National Health Service Act 2006 Act (NHS trusts: oversight and support).]

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<sup>F5</sup>(3) .....

- (4) In subsection (2), references to registration under the Health and Social Care Act 2008 are references to registration under Chapter 2 of Part 1 of that Act.

#### Textual Amendments

- F1** Words in s. 288(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 96(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** Words in s. 288(2)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 96(3)(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Word in s. 288(2)(a) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 96(3)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** S. 288(2A) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 96(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F5** S. 288(3) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 12 para. 6**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### Commencement Information

- I1** S. 288(1)(2)(a) in force at 1.7.2012 by S.I. 2012/1319, **art. 2(3)**
- I2** S. 288(2)(b)(3)(4) in force at 1.4.2013 by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- I3** S. 288(2)(c) in force at 1.4.2014 by S.I. 2014/39, **art. 2(3)**

## 289 Care Quality Commission: duty to co-operate with Monitor

- (1) Section 70 of the Health and Social Care Act 2008 (co-operation between the Commission and the Independent Regulator of NHS foundation trusts) is amended as follows.

- (2) For subsection (1) substitute—

“(1) The Commission must co-operate with Monitor in the exercise of their respective functions.”

- (3) For subsection (2) substitute—

“(2) In particular the Commission must—

- (a) give Monitor any information the Commission has about the provision of health care which the Commission or Monitor considers would assist Monitor in the exercise of its functions,
- (b) make arrangements with Monitor to ensure that—
- (i) a person applying to be both registered under Chapter 2 and for a licence under the Health and Social Care Act 2012 may do so by way of a single application form, and
  - (ii) such a person is granted a registration under Chapter 2 and a licence under that Act by way of a single document, and
- (c) seek to secure that the conditions on a registration under Chapter 2 in a case within paragraph (b) are consistent with the conditions included in the person's licence under that Act.”

- (4) In subsection (3)—

- (a) for “Independent Regulator” substitute “Monitor”, and

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- (b) for “an NHS foundation trust” substitute “a person who holds a licence under the Health and Social Care Act 2012”.
- (5) After that subsection insert—
  - “(4) In this section, a reference to a licence under the Health and Social Care Act 2012 is a reference to a licence under Chapter 3 of Part 3 of that Act.”
- (6) In the heading of that section, for “Independent Regulator of NHS Foundation Trusts” substitute “Monitor”.

**Commencement Information**

- I4** S. 289(1) in force at 1.7.2012 for specified purposes by [S.I. 2012/1319, art. 2\(3\)](#)
- I5** S. 289(1) in force at 1.4.2013 for specified purposes by [S.I. 2013/671, art. 2\(3\)](#)
- I6** S. 289 in force at 1.4.2014 in so far as not already in force by [S.I. 2014/39, art. 2\(3\)](#)
- I7** S. 289(2) in force at 1.7.2012 by [S.I. 2012/1319, art. 2\(3\)](#)
- I8** S. 289(3) in force at 1.7.2012 for specified purposes by [S.I. 2012/1319, art. 2\(3\)](#)
- I9** S. 289(4)(a)(6) in force at 1.7.2012 by [S.I. 2012/1319, art. 2\(3\)](#)
- I10** S. 289(4)(b)(5) in force at 1.4.2013 by [S.I. 2013/671, art. 2\(3\)](#)

**290 Other duties to co-operate**

- <sup>F6</sup>(1) . . . . .
- (2) The Care Quality Commission and each relevant body must co-operate with each other in the exercise of their respective functions [<sup>F7</sup>(including any functions that consist of exercising the functions of other persons)].
- (3) The relevant bodies are—
  - <sup>F8</sup>(a) . . . . .
  - (b) the National Institute for Health and Care Excellence,
  - <sup>F9</sup>(c) . . . . .
  - <sup>F10</sup>(ca) . . . . .
  - (d) Special Health Authorities which have functions that are exercisable in relation to England.
- (4) The Secretary of State may by order amend subsection (3) so as to add to the list of relevant bodies a body that has functions relating to health.
- <sup>F11</sup>(5) . . . . .
- <sup>F12</sup>(6) . . . . .
- (7) For the purposes of this section and section 291, the functions of a Special Health Authority include such functions as it is directed to exercise under section 7 of the National Health Service Act 2006 (directions by Secretary of State).
- (8) References in this section and section 291 to functions are references to functions so far as exercisable in relation to England.

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### Textual Amendments

- F6** S. 290(1) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 97(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F7** Words in s. 290(2) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 9 para. 25**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F8** S. 290(3)(a) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 97(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F9** S. 290(3)(c) 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. 17(29)** (with reg. 3)
- F10** S. 290(3)(ca) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 12(2)** (with reg. 7)
- F11** S. 290(5) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 97(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F12** S. 290(6) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 97(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### Modifications etc. (not altering text)

- C1** S. 290 excluded (1.1.2015) by Care Act 2014 (c. 23), **ss. 111(9)**, 127(1); S.I. 2014/2473, art. 5(c)
- C2** S. 290(1)(2) modified by 2006 c. 41, **s. 13Z4(3)** (as inserted (27.3.2012 for specified purposes) by Health and Social Care Act 2012 (c. 7), **ss. 23(1)**, 306(1)(d)(4))

### Commencement Information

- I11** S. 290 partly in force; s. 290 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I12** S. 290(1)(2)(3)(a)(d)(4)-(8) in force at 1.10.2012 by S.I. 2012/1831, **art. 2(2)**
- I13** S. 290(3)(b)(c) in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

## 291 Breaches of duties to co-operate

- (1) If the Secretary of State is of the opinion that bodies subject to a relevant co-operation duty have breached or are breaching the duty, or are at significant risk of breaching the duty, the Secretary of State may give a written notice of the Secretary of State's opinion to each body.
- (2) The relevant co-operation duties are—
  - (a) the duty under section 288 (co-operation by [<sup>F13</sup>NHS England] with the Care Quality Commission),
  - [<sup>F14</sup>(b) the duty under section 290(2),]
  - (c) the duty under section 70 of the Health and Social Care Act 2008 (co-operation by the Care Quality Commission with [<sup>F15</sup>NHS England]),
  - (d) any duties imposed by an enactment on relevant bodies to co-operate with each other in the exercise of their respective functions.
- (3) The Secretary of State must publish each notice given under subsection (1) in such form as the Secretary of State considers appropriate.
- (4) Subsection (5) applies if, having given a notice under subsection (1), the Secretary of State is satisfied that—

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- (a) the bodies concerned have breached or are continuing to breach the duty or, the risk of a breach having materialised, are breaching the duty, and
  - (b) the breach is having a detrimental effect on the performance of the health service (or, where the effect of the breach on the performance of the health service is both beneficial and detrimental, its overall effect is detrimental).
- (5) The Secretary of State may by order prohibit each body from exercising specified functions, or from exercising specified functions in a specified manner, unless the other body concerned agrees in writing that the body may do so.
- (6) The power to make an order under subsection (5)—
- (a) may be exercised so as to specify different functions in relation to each body, but
  - (b) may not be exercised so as to prevent a body from complying with a requirement imposed by or under an enactment or by a court or tribunal.
- (7) In default of agreement as to the exercise of a function specified in an order under subsection (5), a body may exercise the function in accordance with provision determined by arbitration.
- (8) An order under subsection (5) must specify the period for which a prohibition imposed by it has effect; and the period specified for that purpose may not exceed one year beginning with the day on which the order comes into force.
- (9) But if the Secretary of State is satisfied that the breach is continuing to have a detrimental effect (or an effect that overall is detrimental) on the performance of the health service, the Secretary of State may by order extend by one year the period for which the prohibition for the time being has effect.
- (10) In this section, “the health service” means the comprehensive health service continued under section 1(1) of the National Health Service Act 2006.

#### Textual Amendments

- F13** Words in s. 291(2)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 98\(a\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch. \(with regs. 13, 29, 30\)](#)
- F14** S. 291(2)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 98\(b\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch. \(with regs. 13, 29, 30\)](#)
- F15** Words in s. 291(2)(c) substituted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 98\(c\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch. \(with regs. 13, 29, 30\)](#)

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

- C3** S. 291(2)(d) modified by 2006 c. 41, s. 14Z24(3) (as inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 26](#), 306(1)(d)(4); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#)))
- C4** S. 291(2)(d) modified by 2006 c. 41, s. 13Z4(3) (as inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 23\(1\)](#), 306(1)(d)(4); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#)))

#### Commencement Information

- I14** S. 291 partly in force; s. 291 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I15** S. 291 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:**

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**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. 251 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\(5\)](#)