



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) Monitor must co-operate with the Care Quality Commission in the exercise of their respective functions.
- (2) In particular Monitor must—
 - (a) give the Commission any information Monitor has about the provision of health care services which Monitor 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.
- (3) Without prejudice to subsection (2)(a) Monitor must, on request, provide the Commission with any material relevant to the exercise of Monitor's functions pursuant to section 73(2), so far as the material relates to the provision of health care services.
- (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.

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
- (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”.

290 Other duties to co-operate

- (1) Monitor and each relevant body must co-operate with each other in the exercise of their respective functions.
- (2) The Care Quality Commission and each relevant body must co-operate with each other in the exercise of their respective functions.
- (3) The relevant bodies are—
- (a) the National Health Service Commissioning Board,
- (b) the National Institute for Health and Care Excellence,
- (c) the Health and Social Care Information Centre, and
- (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.
- (5) Where Monitor or the Care Quality Commission regulates an activity of a relevant body, the duty imposed by subsection (1) or (as the case may be) subsection (2) does not apply to—
 - (a) the exercise by Monitor or by the Commission of its function of regulating that activity;
 - (b) the exercise by the relevant body of any function in so far as it involves carrying on that activity.
- (6) A reference in this section to regulating an activity includes a reference to—
 - (a) authorising the carrying on of the activity, imposing restrictions on the carrying on of the activity, and exercising functions in relation to such authorisations or restrictions;
 - (b) enforcing the performance of an obligation imposed (whether or not by provision made by or under an enactment) with respect to the carrying on of the activity;
 - (c) issuing guidance on the carrying on of the activity, the authorisation of the activity, restrictions on the activity, or the performance of obligation imposed with respect to the carrying on of the activity.
- (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.

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 Monitor with the Care Quality Commission),
 - (b) the duties under section 290(1) and (2),
 - (c) the duty under section 70 of the Health and Social Care Act 2008 (co-operation by the Care Quality Commission with Monitor),
 - (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—
 - (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

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

- (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.