



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 3

LICENSING

Enforcement

105 Discretionary requirements

- (1) Monitor may impose one or more discretionary requirements on a person if Monitor is satisfied that the person—
- (a) has provided, or is providing, a health care service for the purposes of the NHS in breach of the requirement to hold a licence under this Chapter (see section 81),
 - (b) is a licence holder who has provided, or is providing, a health care service for the purposes of the NHS in breach of a condition of the licence, or
 - (c) is in breach of a requirement imposed by Monitor under section 104.
- (2) In this Chapter, “discretionary requirement” means—
- (a) a requirement to pay a monetary penalty to Monitor of such amount as Monitor may determine (referred to in this Chapter as a “variable monetary penalty”),
 - (b) a requirement to take such steps within such period as Monitor may specify, to secure that the breach in question does not continue or recur (referred to in this Chapter as a “compliance requirement”), or
 - (c) a requirement to take such steps within such period as Monitor may specify, to secure that the position is, so far as possible, restored to what it would have been if the breach in question was not occurring or had not occurred (referred to in this Chapter as a “restoration requirement”).

Status: This is the original version (as it was originally enacted).

- (3) Monitor must not impose discretionary requirements on a person on more than one occasion in relation to the same breach.
- (4) A variable monetary penalty must not exceed 10% of the turnover in England of the person on whom it is imposed, such amount to be calculated in the prescribed manner.
- (5) If the whole or any part of a variable monetary penalty is not paid by the time it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838; but the total interest must not exceed the amount of the penalty.