

# CARE ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3 - Health

#### *Chapter 1 - Health Education England*

#### National Functions

#### *Section 97 – Planning education and training for healthcare workers etc.*

593. The Secretary of State has a duty in section 1F of the National Health Service Act 2006 (the 2006 Act) to carry out his functions under prescribed enactments, including section 63 of the Health Services and Public Health Act 1968 and the 2006 Act, to secure an effective system for the planning and delivery of education and training to persons who are employed, or who are considering becoming employed, in an activity which involves or is connected with the provision of services as part of the health service in England. The duty applies in relation to people working in the NHS and public health system, and to trainee professionals at the start of their career, before they enter employment in the NHS and public health system. The Secretary of State's duty was introduced in the Health and Social Care Act 2012.
594. Section 63 of the Health Services and Public Health Act 1968 gives the Secretary of State a power to provide, either directly or by entering into arrangements with others, education and training to persons specified in that section, which include all NHS and public health workers. Section 258 of the 2006 Act imposes a duty on the Secretary of State to make available facilities required by universities for clinical teaching and research connected with clinical medicine or clinical dentistry.
595. *Subsection (1)* delegates to HEE the Secretary of State's duty under section 1F, so far as it applies to its functions under section 63(1) and (5) of the Health Services and Public Health Act 1968, section 258(1) of the 2006 Act and any other of the enactments listed in section 1F(3) of that Act as regulations may specify. The delegation of the Secretary of State's duty gives HEE powers to take on responsibility for a wide range of matters relating to education and training, for example relating to workforce planning, the commissioning of education and training and the quality assurance and management of education and training provision. This power will also enable HEE to take on responsibility at a national level for continuing professional and personal development (CPD) provision, for example coordinating and leading CPD activities and investing funds in CPD.
596. *Subsection (2)* gives the Secretary of State a power by regulations to specify other functions of the Secretary of State to which section 1F(1) of the 2006 Act will apply, and to require HEE to carry out the resulting duty.
597. *Subsection (3)* gives the Secretary of State a power to specify that the duty in section 1F of the 2006 Act may be applied to persons of a specified description.

598. The 2006 Act places a duty on providers of NHS services, the National Health Service Commissioning Board (known as NHS England) and clinical commissioning groups to promote education and training to assist the Secretary of State in the discharge of his duty in section 1F. These duties are amended by *subsection (4)* to require co-operation with HEE to assist HEE, in addition to the Secretary of State, in the discharge of the section 1F duty.
599. *Subsection (5)* gives the Secretary of State power to make regulations to specify further functions for HEE relating to education and training.
600. *Subsection (6)* gives HEE a power to carry out other activities related to education and training, with the consent of the Secretary of State.
601. Section 63(6)(b) of the Health Services and Public Health Act 1968 gives the Secretary of State a power to pay travelling and other allowances to persons who are undertaking education and training under that section. *Subsection (7)* amends section 63(6) of that Act to give the Secretary of State a power to make such other payments as the Secretary of State considers appropriate and for payments to be made subject to such terms and conditions as the Secretary of State decides. The Secretary of State's power to make such payment means that provisions can be made about suspension or termination of payments, and overpayments could be required to be repaid.
602. *Subsection (8)* provides that the power of the Secretary of State under section 63(6) of the 1968 Act is exercisable concurrently with HEE, but in exercising the power HEE must have regard to any guidance or other information issued by the Secretary of State.

### ***Section 98 – Ensuring sufficient skilled health care workers for the health service***

603. This section places a duty on HEE to ensure that there is a sufficient number of healthcare workers with the skills and training to provide health services in England. For example, HEE will need to ensure that sufficient nurses are trained nationally to meet anticipated demand for future NHS service provision.
604. HEE has direct control over the investment in education and training for health professionals funded through the education and training budget. This budget totalled approximately £4.9 billion in 2013/14 and is invested in a wide range of undergraduate programmes, post registration and postgraduate training programmes and in NHS student support arrangements. Where necessary, HEE will work closely with other bodies to influence investment. For example, HEE will work with the Higher Education Funding Council for England, and universities across England who deliver healthcare related training programmes, to ensure that their funding is invested in the right areas and suitable training opportunities are available in the right places and in the right numbers.
605. *Subsection (2)* gives the Secretary of State the power to specify in regulations in relation to which healthcare workers the duty to ensure sufficient skilled workers should apply.

### ***Section 99 – Quality improvement in education and training, etc.***

606. *Subsection (1)* provides that HEE must exercise its functions with a view to securing continuous improvement in the quality of education and training provided to healthcare workers and in the quality of NHS services. The professional regulators such as the General Medical Council set the standards for health professionals to be registered to practise in the UK. In commissioning education and training, HEE and the LETBs must build on these standards and will work with education providers to ensure that the provision of education and training continually improves in quality and delivers health professionals who are fit for purpose and meet the needs of employers in the NHS and their patients and service users.
607. *Subsection (2)* provides that HEE must, in exercising its functions, promote research into the activities listed in section 63(2) of the Health Services and Public Health Act

1968, such as primary dental or medical services, in so far as they are relevant to HEE's functions. HEE may do this by, for example, working closely with organisations such as the Academic Health Science Centres and Academic Health Science Networks. HEE must also promote the use of evidence obtained from this research.

608. *Subsections (3) and (4)* require HEE to have regard to the NHS Constitution and promote the NHS Constitution in carrying out its functions.

### ***Section 100 – Objectives, priorities and outcomes***

609. *Subsection (1)* stipulates that the Secretary of State must publish a document which specifies the objectives and priorities for HEE in relation to the education and training to be provided to health care workers. This document will be commonly referred to as HEE's mandate. It will be reviewed annually, before the beginning of each financial year, and republished if changes are made.
610. *Subsection (2)* stipulates that the Secretary of State will publish a document that sets the outcomes for HEE to achieve having regard to its objectives and priorities. The document will be known as the Education Outcomes Framework and will include outcomes applicable to other organisations in the health and public health system. It will be supported by a range of measures so that the system can demonstrate at all levels education quality outcomes as they impact on patient experience, care and safety.
611. *Subsection (3)* permits the Secretary of State to revise HEE's mandate and the Education Outcomes Framework and also provides that it must be republished if it is revised.
612. *Subsection (4)* requires HEE to publish a document which specifies the priorities, objectives and outcomes it expects to achieve; these priorities, objectives and outcomes must be consistent with those set by the Secretary of State at subsections (1) and (2) above. The document must also include guidance to LETBs about how they should carry out their commissioning functions. HEE is required to review the document annually and republish it if it is amended. This document will be developed in consultation with the NHS Commissioning Board (known as NHS England) and Public Health England. It will underpin the relationship and resource allocation arrangements between HEE and the LETBs. It will set out the medium to long term context for the development of the NHS and public health workforce, and will provide the framework within which the LETBs will develop their education and training plans. *Subsection (5)* provides that in producing the document, HEE must have regard to longer term objectives relating to workforce planning and education and training provision. HEE's duty under subsection (4) can be met by publishing two or more documents which taken together comply with its obligations.
613. *Subsection (8)* requires HEE to review the document annually and if it revises it then it must republish the revised document.

### ***Section 101 – Sections 98 and 100: matters to which HEE must have regard***

614. This section specifies matters that HEE must have regard to when exercising its duties under sections 98(1) (ensuring sufficient skilled workers) and 100(4) (setting objectives, priorities and outcomes for education and training).

### ***Section 102 – Advice***

615. This section stipulates that HEE must make arrangements for obtaining advice from persons who are involved in, or have an interest in, the provision of education and training. The education and training landscape is multi-faceted, and many organisations have an interest in the development of health professionals, ranging from local employers in the NHS through to national organisations such as the professional regulators like the General Medical Council and professional bodies such as the medical Royal Colleges.

616. *Subsections (2) and (3)* stipulate that HEE must ensure it receives representations from specified groups. These groups include providers of NHS services, patients and their carers, the NHS and public health workforce or the trades unions who represent them and, professional regulators such as the Health and Care Professions Council. It also includes the range of bodies involved in the development and provision of education and training such as the medical Royal Colleges who support the development of curricula and the bodies involved in the delivery of further and higher education such as colleges and universities.
617. *Subsection (4)* requires HEE to advise the Secretary of State on any matters relating to its functions as the Secretary of State requests. The Secretary of State may specify in his request how and when the advice is to be provided.