

# CARE ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3 - Health

##### *Chapter 2 – Health Research Authority*

##### **Establishment**

##### *Schedule 7 –The Health Research Authority*

##### **Part 1 – Constitution**

667. *Paragraph 1* makes provision about the membership of the HRA. The Board will be made up of a chair, three or four non-executive members, a chief executive and two or three executive members.
668. *Paragraph 2* makes provision about the terms of appointment and tenure of office of non-executive members. Sub-paragraph (2) specifies that the maximum term for a non-executive is 4 years. Sub-paragraph (3) specifies that a person who ceases to be a non-executive member is eligible for re-appointment. Provision is made in sub-paragraph (4) to enable a non-executive member to resign at any time by giving notice to the Secretary of State, and sub-paragraphs (5) and (6) enable the Secretary of State to remove or suspend non-executive members from office on the grounds of incapacity, misbehaviour or failure to carry out his or her duties as a non-executive member.
669. *Paragraph 3* sets out the procedural requirements to be complied with where the Secretary of State suspends a non-executive member of the HRA under the power in paragraph 2(6).
670. *Paragraph 4* enables the Secretary of State to appoint a non-executive member as interim chair where the chair is suspended under paragraph 2(6), and sets out the conditions that apply to that appointment.
671. *Paragraph 5* requires the HRA to make payments to the non-executive members and the chair. The level of these payments would be determined by the Secretary of State.
672. *Paragraph 6* gives the HRA powers to appoint employees on such terms as it may determine. The appointment of the chief executive must be agreed by the Secretary of State.
673. *Paragraph 7* allows the HRA to decide the levels of pay, pensions or allowances it will make to its staff. In line with other arms-length bodies (for example, Monitor, Care Quality Commission, NHS Commissioning Board (known as NHS England) and, as covered by this Act, HEE), the HRA would be required to seek the approval of the Secretary of State to its policy on pay, pensions and allowances.
674. *Paragraph 8* makes provision about the appointment of committees and sub-committees by the HRA. Sub-paragraph (1)(a) and (b) requires the HRA to appoint a committee to advise the HRA and the Secretary of State in relation to their respective functions under

the Health Service (Control of Patient Information) Regulations 2002. The advice to be given under sub-paragraphs (1)(a) and (1)(b) includes advice on applications to process confidential patient information for medical purposes to the HRA in the case of medical research and to the Secretary of State in other cases.

675. Sub-paragraph (1)(c) requires the committee to advise the Health and Social Care Information Centre. The committee would supply advice in connection with HSCIC's exercise of functions pursuant to further regulations under section 251 of the 2006 Act, and also in connection with any publication or other dissemination by HSCIC of information which identifies an individual or could potentially be used to identify an individual.
676. Sub-paragraph (3) requires the committee under sub-paragraph (1) to consist of persons independent of the HRA. Sub-paragraph (2) enables the HRA to appoint other committees and sub-committees. Committees appointed under paragraph 8 can include participants in research, potential participants and the public as well as any persons with particular expertise relevant to the committee's work, for example, nurses or social workers or any other person HRA considers appropriate. The HRA may pay members of its committees where they are not employees of the HRA.
677. *Paragraph 9* provides a power to set out in regulations the specific factors or matters to which the committee appointed by the HRA under paragraph 8(1) of Schedule 7 must have regard when advising on the exercise by:
- the HRA or the Secretary of State of functions under the Health Service (Control of Patient of Patient Information) Regulations 2002, or
  - the HSCIC of functions pursuant to further regulations under section 251 of the 2006 Act or any publication or other dissemination by the HSCIC of information which identifies or could be used to identify an individual.

Such factors or matters might include the need to ensure processing must respect and promote patient privacy and that an applicant for access to such information has not breached confidentiality in the past.

678. *Paragraph 10* allows the HRA to regulate its own procedure. So for example, this power may enable the HRA to remove the risk of a conflict of interest by preventing executive members from being involved in determining their own pay. Sub-paragraph (2) provides that a vacancy amongst the members of the HRA or a defect in appointment of a member does not prevent the HRA from continuing to operate.
679. *Paragraph 11* makes provision in relation to the HRA's seal which would be used to show approval of official HRA documents.
680. *Paragraph 12* provides that the status of the HRA would be a non-departmental public body that is not part of the Crown, nor regarded as a servant or agent of the Crown.