



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 11

#### MISCELLANEOUS

##### *The Care Quality Commission*

#### **292 Requirement for Secretary of State to approve remuneration policy etc.**

In paragraph 5 of Schedule 1 to the Health and Social Care Act 2008 (employees of the Care Quality Commission), at the end insert—

“(5) Before making a determination as to remuneration, pensions, allowances or gratuities for the purposes of sub-paragraph (3) or (4), the Commission must obtain the approval of the Secretary of State to its policy on that matter.”

#### **293 Conduct of reviews etc.**

(1) Part 1 of the Health and Social Care Act 2008 (the Care Quality Commission) is amended as follows.

(2) In section 48 (special reviews and investigations)—

- (a) in subsection (1) after “may” insert “, with the approval of the Secretary of State,” and
- (b) after subsection (1) insert—

“(1A) The Commission may conduct an investigation under this section without the approval of the Secretary of State where the Commission considers there to be a risk to the health, safety or welfare of persons receiving health or social care.”

(3) In section 54 (studies as to economy, efficiency etc.), in each of subsections (1) and (3) after “may” insert “, with the approval of the Secretary of State,”.

- (4) In section 57 (reviews of data, studies and research), in subsection (1) after “may” insert “, with the approval of the Secretary of State.”

## **294 Failure to discharge functions**

- (1) In section 82 of the Health and Social Care Act 2008 (failure by Commission to discharge functions), in subsection (1), at the end insert “,

and that the failure is significant.”

- (2) After subsection (2) of that section insert—

“(2A) But the Secretary of State may not give a direction under subsection (1) in relation to the performance of functions in a particular case.”

- (3) After subsection (3) of that section insert—

“(4) Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State must publish the reasons for doing so.

(5) For the purposes of this section a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred; and “the health service” has the same meaning as in the National Health Service Act 2006.”

- (4) In section 161 of that Act (orders, regulations and directions: general provisions), in subsection (3), before “any power of the Secretary of State to give directions” insert “(subject to section 82(2A))”.

- (5) In section 165 of that Act (directions), at the beginning of subsection (2) insert “Subject to subsection (3),”.

- (6) After that subsection insert—

“(3) A direction under section 82 must be given by regulations or by an instrument in writing.”