



# Health Act 1999

## 1999 CHAPTER 8

### PART I

#### THE NATIONAL HEALTH SERVICE

##### *Quality etc*

### 23 Obtaining information etc

- (1) The Secretary of State may by regulations make provision—
- (a) conferring a right on persons authorised by the Commission to enter NHS premises at such times, in such cases, for such purposes and on such conditions as may be prescribed in order—
    - (i) to inspect those premises, or
    - (ii) to inspect and take copies of prescribed documents held by prescribed persons on those premises,
  - (b) requiring prescribed persons at such times, at such places, in such cases and for such purposes as may be prescribed to produce prescribed documents or information, or make reports, to the Commission or to persons authorised by the Commission,
  - (c) requiring prescribed persons at such times, at such places, in such cases and for such purposes as may be prescribed to provide to the Commission, or to persons authorised by the Commission, an explanation of—
    - (i) any matters which are the subject of the exercise of any functions of the Commission, or
    - (ii) any documents or information inspected, copied or produced as mentioned in paragraph (a) or (b).
- (2) Regulations under this section may not make provision with respect to the disclosure of confidential information which relates to and identifies a living individual unless one or more of the following conditions is satisfied—
- (a) the information is disclosed in a form in which the identity of the individual cannot be ascertained,

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*Status: This is the original version (as it was originally enacted).*

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- (b) the individual consents to the information being disclosed,
  - (c) the individual cannot be traced despite the taking of all reasonable steps,
  - (d) in a case where the Commission is exercising its functions under section 20(1)(c)—
    - (i) it is not practicable to disclose the information in a form in which the identity of the individual cannot be ascertained,
    - (ii) the Commission considers that there is a serious risk to the health or safety of patients arising out of the matters which are the subject of the exercise of those functions, and
    - (iii) having regard to that risk and the urgency of the exercise of those functions, the Commission considers that the information should be disclosed without the consent of the individual.
- (3) Regulations under this section may not make provision with respect to the disclosure of information if that disclosure would be prohibited by or under any other enactment; but where information is held in a form in which the prohibition operates by reason of the fact that the information is capable of identifying an individual, regulations under this section may make provision with respect to the disclosure of the information in a form in which the identity of the individual cannot be ascertained.
- (4) Any person who without reasonable excuse—
- (a) obstructs a person authorised by the Commission in the exercise of any right conferred by virtue of subsection (1)(a), or
  - (b) fails to comply with any requirement imposed by virtue of subsection (1)(b) or (c),
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form; and in the case of information so held, regulations under this section may make provision for it to be made available or produced in a visible and legible form.
- (6) In this section—
- “confidential information” means information which is held subject to a duty of confidence, and includes information contained in a health record,
  - “health record” has the meaning given by section 68(2) of the Data Protection Act 1998,
  - “NHS premises” means premises owned or controlled by a Health Authority, Special Health Authority, Primary Care Trust or NHS trust,
  - “prescribed” means prescribed by regulations made by the Secretary of State.