



# Health and Social Care (Community Health and Standards) Act 2003

## 2003 CHAPTER 43

### PART 2

#### STANDARDS

#### CHAPTER 1

##### REGULATORY BODIES

#### <sup>F1</sup>41 The Commission for Healthcare Audit and Inspection

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##### Textual Amendments

**F1** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(n), 36

#### <sup>F1</sup>42 The Commission for Social Care Inspection

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##### Textual Amendments

**F1** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(n), 36

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

## <sup>F1</sup>43 Transfer of property etc to CHAI and CSCI

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### Textual Amendments

- F1** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(n), 36

## <sup>F1</sup>44 Abolition of former regulatory bodies

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### Textual Amendments

- F1** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(n), 36

## CHAPTER 2

### NHS HEALTH CARE: INTRODUCTORY

## 45 Quality in health care

- (1) It is the duty of each [<sup>F2</sup>Welsh] NHS body to put and keep in place arrangements for the purpose of monitoring and improving the quality of health care provided by and for that body.
- (2) In this Part “health care” means—
  - (a) services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness; and
  - (b) the promotion and protection of public health.
- (3) In subsection (2)(a), “illness” has the meaning given by [<sup>F3</sup>section 275 of the 2006 Act].
- [<sup>F4</sup>(4) In this Chapter references to the provision of health care for a body include in the case of an English NHS body references to the provision of health care in respect of which direct payments are made by that body under section 12A(1), or under regulations under section 12A(4), of the National Health Service Act 2006. ]

### Textual Amendments

- F2** Word in s. 45(1) inserted (1.4.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 37](#); S.I. 2010/708, art. 13(e)
- F3** Words in s. 45(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 241](#) (with Sch. 3 Pt. 1)
- F4** S. 45(4) inserted (temp.) (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 1 para. 5](#); S.I. 2010/30, art. 2(b)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C1** S. 45 applied (1.4.2005) by [Health Protection Agency Act 2004 \(c. 17\)](#), **ss. 10(2)**, 12(1); S.I. 2005/121, [art. 2\(2\)](#)
- C2** S. 45 functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), regs. 1(2), 4, **Sch.**

**Commencement Information**

- I1** S. 45 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 9**

**<sup>F5</sup>46 Standards set by Secretary of State**

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**Textual Amendments**

- F5** S. 46 repealed (1.4.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 38](#), **Sch. 15 Pt. 1**; S.I. 2010/708, [art. 13\(e\)\(f\)](#)

**47 Standards set by Assembly**

- (1) The Assembly may prepare and publish statements of standards in relation to the provision of health care by and for Welsh NHS bodies.
- (2) The Assembly must keep the standards under review and may publish amended statements whenever it considers it appropriate.
- (3) The Assembly must consult such persons as it considers appropriate—
  - (a) before publishing a statement under this section;
  - (b) before publishing an amended statement under this section which in the opinion of the Assembly effects a substantial change in the standards.
- (4) The standards set out in statements under this section are to be taken into account by every Welsh NHS body in discharging its duty under section 45.

**Modifications etc. (not altering text)**

- C3** S. 47(4) functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), regs. 1(2), 4, **Sch.**

**Commencement Information**

- I2** S. 47 in force at 1.4.2004 by [S.I. 2004/873](#), **art. 2(a)**

**<sup>F6</sup>47A Code of practice relating to health care associated infections**

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F6** Ss. 47A-47C repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 39, Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(o), 36

**F6 47B Consultation etc.**

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**Textual Amendments**

**F6** Ss. 47A-47C repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 39, Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(o), 36

**F6 47C Effect of code under section 47A**

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**Textual Amendments**

**F6** Ss. 47A-47C repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 39, Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(o), 36

**CHAPTER 3**

**NHS HEALTH CARE: FUNCTIONS OF CHAI**

*Healthcare provided by and for NHS bodies*

**F7 48 Introductory**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(p), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F7 49 National performance data**

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 50 Annual reviews**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 51 Reviews: England and Wales**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 52 Reviews and investigations: England**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 53 Failings**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

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**F7 53A Failings in connection with code under section 47A: improvement notices**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 53B Code of practice: action by CHAI following service of improvement notice**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 54 Functions relating to Secretary of State and Assembly**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 55 Reviews of data**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 56 Co-ordination of reviews**

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*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

*Other functions*

**F7 57 Studies as to economy, efficiency etc**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 58 Additional functions**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

*Supplementary*

**F7 59 Criteria**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 60 Provision of material**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 61 Co-operation between CHAI and the regulator**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 62 Fees**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 63 Fees: Wales**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F7 64 Reports and information**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)



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**F7 65 Co-operation between CHAI and the Audit Commission**

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**Textual Amendments**

**F7** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F8 66 Right of entry**

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**Textual Amendments**

**F8** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F9 67 Right of entry: supplementary**

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**Textual Amendments**

**F9** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F10 68 Power to require documents and information etc**

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**Textual Amendments**

**F10** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F11 69 Power to require explanation**

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*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

#### Textual Amendments

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

### <sup>F12</sup>69A Provision of information by Auditor General for Wales

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#### Textual Amendments

**F12** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, Sch. 15 Pt. 1; [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

## CHAPTER 4

### NHS HEALTH CARE: FUNCTIONS OF NATIONAL ASSEMBLY FOR WALES

#### *Reviews and investigations*

### 70 Reviews and investigations relating to Wales

- (1) The Assembly has the function of conducting reviews of, and investigations into, the provision of health care by and for Welsh NHS bodies.
- (2) The Assembly may in particular under this section conduct—
  - (a) a review of the overall provision of health care by and for Welsh NHS bodies;
  - (b) a review of the overall provision of a particular kind of health care by and for Welsh NHS bodies;
  - (c) a review of, or investigation into, the provision of any health care by or for a particular Welsh NHS body.
- (3) The Assembly has the function of conducting reviews of the arrangements made by Welsh NHS bodies for the purpose of discharging their duty under section 45.

[<sup>F13</sup>(3A) Before conducting a review under this section the Assembly must—

- (a) consult the Auditor General for Wales, and
- (b) take into account any relevant work done or being done by the Auditor General for Wales.]
- (4) In exercising its functions under this section in relation to any health care the Assembly shall be concerned in particular with—
  - (a) the availability of, and access to, the health care;
  - (b) the quality and effectiveness of the health care;
  - (c) the financial or other management of the health care and the economy and efficiency of its provision;

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- (d) the availability and quality of information provided to the public about the health care;
  - (e) the need to safeguard and promote the rights and welfare of children; and
  - (f) the effectiveness of measures taken for the purpose specified in paragraph (e) by the body in question and any person who provides, or is to provide, health care for that body,
- and must take into account the standards set out in statements published under section 47.
- (5) For the purposes of this section the Assembly may carry out an inspection of—
- (a) any Welsh NHS body;
  - (b) any other person who provides, or is to provide, health care for a Welsh NHS body (in Wales or elsewhere).
- (6) Where the Assembly conducts a review under this section it must publish a report.

#### Textual Amendments

**F13** S. 70(3A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 60](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

#### Commencement Information

**I3** S. 70 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(b\)](#)

## 71 Reporting to Secretary of State and regulator

- (1) The Assembly must report to the Secretary of State where, after conducting a review or investigation under section 70, it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for an English NHS body or cross-border SHA;
  - (b) there are significant failings in the running of an English NHS body or cross-border SHA; or
  - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for an English NHS body or cross-border SHA.
- (2) A report under subsection (1) may include a recommendation that, with a view to remedying the failings, the Secretary of State take special measures in relation to—
- (a) the English NHS body or cross-border SHA; and
  - (b) in a case falling within paragraph (c) of subsection (1), any person, other than a Welsh NHS body, referred to in that paragraph.
- (3) The Assembly must report to the regulator where, after conducting a review or investigation under section 70, it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for an NHS foundation trust;
  - (b) there are significant failings in the running of an NHS foundation trust; or
  - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for an NHS foundation trust.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (4) A report under subsection (3) may include a recommendation that, with a view to remedying the failings, the regulator take special measures in relation to the NHS foundation trust.
- (5) A report under this section must give the Assembly’s reasons for its view and for any recommendation made.

#### Commencement Information

**I4** S. 71 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(b\)](#)

### *Ancillary powers*

#### **72 Right of entry**

- (1) A person authorised to do so by the Assembly may, if the Assembly considers it necessary or expedient for the purposes of this Chapter, at any reasonable time enter and inspect—
- (a) any premises owned or controlled by a Welsh NHS body;
  - (b) any other premises used, or proposed to be used, for any purpose connected with—
    - (i) the provision of health care by or for a Welsh NHS body; or
    - (ii) the discharge of any of the functions of a Welsh NHS body.
- (2) A person who proposes to exercise any power of entry or inspection conferred by this section must if so required produce some duly authenticated document showing his authority to exercise the power.

#### Commencement Information

**I5** S. 72 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(b\)](#)

#### **73 Right of entry: supplementary**

- (1) A person authorised by virtue of section 72 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of this Chapter—
- (a) inspect, take copies of and remove from the premises any documents or records (including personal records);
  - (b) inspect any other item and remove it from the premises;
  - (c) interview in private—
    - (i) any person working at the premises;
    - (ii) any person receiving health care there who consents to be interviewed; and
  - (d) make any other examination into the state and management of the premises and treatment of persons receiving health care there.
- (2) The power in subsection (1)(a) includes—
- (a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) A person authorised by virtue of section 72 to enter and inspect any premises may—
  - (a) require any person to afford him such facilities and assistance with respect to matters within the person’s control as are necessary to enable him to exercise his powers under section 72 or this section; and
  - (b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (5) Any person who without reasonable excuse—
  - (a) obstructs the exercise of any power conferred by section 72 or this section, or
  - (b) fails to comply with any requirement of section 72 or this section,
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I6** S. 73 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(b\)](#)

## 74 Power to require documents and information

- (1) The Assembly may at any time require any person specified in subsection (2) to provide it with any information, documents, records (including personal records) or other items—
  - (a) which relates or relate to—
    - (i) the provision of health care by or for a Welsh NHS body; or
    - (ii) the discharge of any of the functions of a Welsh NHS body; and
  - (b) which the Assembly considers it necessary or expedient to have for the purposes of this Chapter.
- (2) The persons referred to in subsection (1) are—
  - (a) the Welsh NHS body;
  - (b) any person providing health care for, or exercising functions of, the Welsh NHS body;
  - (c) a local authority in Wales.
- (3) The power in subsection (1) to require the provision of records includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.
- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Commencement Information**

**I7** S. 74 in force at 1.4.2004 by S.I. 2004/873, **art. 2(b)**

**75 Power to require explanation**

- (1) The Assembly may by regulations make provision requiring prescribed persons to provide to the Assembly, or to persons authorised by it, an explanation of—
  - (a) any documents, records or items inspected, copied or provided under sections 72 to 74,
  - (b) any information provided under those sections, or
  - (c) any matters which are the subject of the exercise of any function of the Assembly under section 70, and
 in circumstances where the Assembly considers the explanation necessary or expedient for the purposes of this Chapter.
- (2) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the Assembly.
- (3) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Commencement Information**

**I8** S. 75 partly in force; s. 75 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I9** S. 75 in force at 1.4.2004 in so far as not already in force by S.I. 2004/873, **art. 2(b)**

**CHAPTER 5**

SOCIAL SERVICES: FUNCTIONS OF CSCI

*Provision of social services*

**F1476 Introductory**

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**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1477 Information and advice**

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1478 Review of studies and research**

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**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1479 Annual reviews**

.....

**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1480 Other reviews and investigations**

.....

**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1481 Failings**

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**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

*Other functions*

**F1482 Studies as to economy, efficiency etc**

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**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1483 Joint working with Audit Commission**

.....

**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1484 Additional functions**

.....

**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Supplementary*

**F1485 Criteria**

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**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1486 Fees**

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1487 Reports and information**

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**Textual Amendments**

**F14** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1588 Right of entry**

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**Textual Amendments**

**F15** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1689 Right of entry: supplementary**

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**Textual Amendments**

**F16** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1790 Power to require information etc**

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**Textual Amendments**

**F17** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

## **F18** 91 Power to require explanation

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### **Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

## **CHAPTER 6**

### **SOCIAL SERVICES: FUNCTIONS OF NATIONAL ASSEMBLY FOR WALES**

### **Modifications etc. (not altering text)**

**C4** [Pt. 2 Ch. 6](#) applied (1.10.2006) by [Children Act 2004 \(c. 31\)](#), **ss. 30**, 67(3); S.I. 2006/885, art. 2(4)(a)

### *Provision of social services*

## **92 General function**

The Assembly has the general function of encouraging improvement in the provision of Welsh local authority social services.

### **Commencement Information**

**I10** [S. 92](#) in force at 1.4.2004 by [S.I. 2004/873](#), **art. 2(c)**

## **93 Reviews of studies and research**

(1) The Assembly may review—

- (a) studies and research undertaken by others in relation to the provision of Welsh local authority social services;
- (b) the methods used in such studies and research; and
- (c) the validity of conclusions drawn from such studies and research.

(2) Where the Assembly conducts a review under this section it must publish such report as it considers appropriate.

### **Commencement Information**

**I11** [S. 93](#) in force at 1.4.2004 by [S.I. 2004/873](#), **art. 2(c)**

## **94 Reviews and investigations**

(1) The Assembly has the function of conducting reviews of, and investigations into, the way in which local authorities in Wales discharge their social services functions.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (2) The Assembly may in particular under this section conduct—
  - (a) a review of the overall provision of Welsh local authority social services;
  - (b) a review of the provision of any Welsh local authority social service of a particular description; or
  - (c) a review of, or investigation into, the provision of any Welsh local authority social service by a particular person or persons.
- (3) The Assembly may in a review under subsection (2)—
  - (a) assess performance against criteria;
  - (b) award performance ratings.
- (4) For the purposes of this section the Assembly may carry out an inspection of—
  - (a) any local authority in Wales;
  - (b) any other person providing a Welsh local authority social service.
- (5) Where the Assembly conducts a review or investigation under this section, it must publish a report.
- (6) The Assembly may by regulations require a local authority in Wales to pay a fee to the Assembly in respect of the exercise of the Assembly’s function under this section in relation to the functions referred to in section 43(3)(a) and (b) of the Care Standards Act 2000 (c. 14) (adoption and fostering functions).
- (7) A fee under this section shall be of such amount, and shall be payable at such a time, as may be specified in the regulations.
- (8) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

#### Commencement Information

**I12** S. 94 partly in force; s. 94 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I13** S. 94(1)-(5) in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

## 95 Studies as to economy, efficiency etc

- (1) The Assembly has the function of promoting or undertaking comparative or other studies designed to enable it to make recommendations—
  - (a) for improving economy, efficiency and effectiveness in the discharge by local authorities in Wales of their social services functions;
  - (b) for improving the management of such local authorities in the discharge of those functions.
- (2) The Assembly may also promote or undertake studies designed to enable it to prepare reports as to the impact of the operation of any particular statutory provisions on economy, efficiency and effectiveness in the discharge by local authorities in Wales of their social services functions.
- (3) The Assembly must publish or otherwise make available—
  - (a) any recommendations made by it under subsection (1); and
  - (b) a report on the result of any studies under this section.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (4) The Assembly and the Audit Commission must co-operate with each other with respect to the exercise of their respective functions under this section and sections 33 and 34 of the Audit Commission Act 1998 (c. 18).

#### Commencement Information

**I14** S. 95 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

#### [<sup>F19</sup>96 Additional functions

- (1) The Assembly shall have such additional functions in relation to the provision of Welsh local authority social services as—
- (a) correspond to functions within subsection (2), and
  - (b) are specified by the Assembly in regulations.
- (2) The functions within this subsection are—
- [<sup>F20</sup>(a) functions of the Care Quality Commission under Part 1 of the Health and Social Care Act 2008, and]
  - (b) functions relating to the provision of relevant services and assigned to Her Majesty's Chief Inspector of Education, Children's Services and Skills under section 118(4) of the Education and Inspections Act 2006.
- (3) In subsection (2)(b) “ relevant services ” means services which immediately before the coming into force of Chapter 4 of Part 8 of the Education and Inspections Act 2006 were English local authority social services for the purposes of this Part of this Act. ]

#### Textual Amendments

**F19** S. 96 substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 88](#); S.I. 2007/935, art. 5(gg)

**F20** S. 96(2)(a) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 42](#); S.I. 2009/462, art. 2(1), Sch. 1 para. 35(r)

#### 97 General considerations

- (1) This section applies for the purpose of the exercise by the Assembly of its functions—
- (a) under sections 92 to 95; and
  - (b) under regulations under section 96.
- (2) The Assembly shall be concerned in particular with—
- (a) the availability of, and access to, the services;
  - (b) the quality and effectiveness of the services;
  - (c) the management of the services;
  - (d) the economy and efficiency of their provision and their value for money;
  - (e) the availability and quality of information provided to the public about the services;
  - (f) the need to safeguard and promote the rights and welfare of children; and
  - (g) the effectiveness of measures taken by local authorities for the purpose specified in paragraph (f).

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

### Commencement Information

**I15** S. 97 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

## Ancillary powers

### 98 Right of entry

- (1) A person authorised to do so by the Assembly may, if the Assembly considers it necessary or expedient for the purposes of this Chapter, at any reasonable time enter and inspect—
  - (a) any premises owned or controlled by a local authority in Wales;
  - (b) any premises falling within subsection (2), other than premises used wholly or mainly as a private dwelling.
- (2) The premises referred to in subsection (1)(b) are premises—
  - (a) which are used, or proposed to be used, by any person in connection with the provision of a Welsh local authority social service; or
  - (b) which the Assembly reasonably believes to be so used, or proposed to be so used.
- (3) A person who proposes to exercise any power of entry or inspection conferred by this section must if so required produce some duly authenticated document showing his authority to exercise the power.

### Commencement Information

**I16** S. 98 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

### 99 Right of entry: supplementary

- (1) A person authorised by virtue of section 98 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of this Chapter—
  - (a) inspect, take copies of and remove from the premises any documents or records (including personal records) relating to the discharge by the local authority of its social services functions;
  - (b) inspect any other item and remove it from the premises;
  - (c) interview in private—
    - (i) any person working at the premises; or
    - (ii) any person accommodated or cared for there who consents to be interviewed; and
  - (d) make any other examination into the state and management of the premises and treatment of persons accommodated or cared for there.
- (2) The power in subsection (1)(a) includes—
  - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) A person authorised by virtue of section 98 to enter and inspect premises may—
  - (a) require any person to afford him such facilities and assistance with respect to matters within the person’s control as are necessary to enable him to exercise his powers under section 98 or this section;
  - (b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (5) Any person who without reasonable excuse—
  - (a) obstructs the exercise of any power conferred by section 98 or this section, or
  - (b) fails to comply with any requirement of section 98 or this section,
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Commencement Information**

**I17** S. 99 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

### **100 Power to require information**

- (1) The Assembly may at any time require any person specified in subsection (2) to provide it with any information, documents, records (including personal records) or other items—
  - (a) which relates or relate to the discharge by a local authority in Wales of its social services functions; and
  - (b) which the Assembly considers it necessary or expedient to have for the purpose of any of its functions under this Chapter.
- (2) The persons referred to in subsection (1) are—
  - (a) the local authority;
  - (b) a person providing a Welsh local authority social service for the authority; or
  - (c) any [<sup>F21</sup>Welsh NHS body or cross-border SHA].
- (3) The power in subsection (1) to require the provision of information includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.
- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F21** Words in s. 100(2)(c) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 43](#); S.I. 2009/462, art. 2(1), Sch. 1 para. 35(r)

**Commencement Information**

**I18** S. 100 in force at 1.4.2004 by [S.I. 2004/873, art. 2\(c\)](#)

**101 Power to require explanation**

- (1) The Assembly may by regulations make provision requiring prescribed persons to provide to the Assembly, or to persons authorised by it, an explanation of—
  - (a) any documents, records or items inspected, copied or produced under sections 98 to 100,
  - (b) any information provided under those sections, or
  - (c) any matters which are the subject of the exercise of any functions of the Assembly under this Chapter,
 in cases where the Assembly considers the explanation necessary or expedient for the purposes of this Chapter.
- (2) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the Assembly.
- (3) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Commencement Information**

**I19** S. 101 partly in force; s. 101 in force at Royal Assent for certain purposes, see [s. 199\(1\)\(4\)](#)

**I20** S. 101 in force at 1.4.2004 in so far as not already in force by [S.I. 2004/873, art. 2\(c\)](#)

**CHAPTER 7**

**FUNCTIONS UNDER THE CARE STANDARDS ACT 2000**

*Functions of CHAI and CSCI*

**<sup>F22</sup>102 Transfer of functions to CHAI and CSCI**

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**Textual Amendments**

**F22** Ss. 102-104 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 44, Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(r), 36

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

## <sup>F22</sup>103 General functions of CHAI

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### Textual Amendments

**F22** Ss. 102-104 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 44, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(r), 36

## <sup>F22</sup>104 General functions of CSCI

.....

### Textual Amendments

**F22** Ss. 102-104 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 44, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(r), 36

## 105 Fees

- (1) The Care Standards Act 2000 (c. 14) is amended as follows.
- (2) After section 113 insert—

### “113A Fees payable under Part 2

- (1) The CHAI and the CSCI may each from time to time make and publish provision determining the amount of any fee payable to it under Part 2.
  - (2) Provision under subsection (1) may include provision—
    - (a) for different amounts to be payable in different cases, or classes of case;
    - (b) for different amounts to be payable by persons of different descriptions.
  - (3) Before the CHAI or the CSCI makes any provision under subsection (1) it must consult such bodies as appear to it to be representative of the persons liable to pay the fee.
  - (4) No provision may be made under subsection (1) without the consent of the Secretary of State.
  - (5) If the Secretary of State considers it necessary or desirable to do so, he may by regulations make provision determining the amount of a fee payable to the CHAI or the CSCI under Part 2 instead of the amount for which provision is made under subsection (1).
  - (6) Before making any regulations under subsection (5) in respect of fees payable to the CHAI or the CSCI, the Secretary of State shall consult that body and such other persons as appear to him to be appropriate.”
- (3) In section 12 (applications for registration), in subsection (2), for “a fee of the prescribed amount” substitute “ a fee of the amount determined under section 113A,



*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

where the registration authority is the CHAI or the CSCI, or of the prescribed amount, where the registration authority is the Assembly.”

- (4) In section 15 (other applications), in subsection (3) for “a fee of such amount as may be prescribed” substitute “a fee of—
- (a) the amount determined under section 113A, where the registration authority is the CHAI or the CSCI; or
  - (b) the prescribed amount, where the registration authority is the Assembly.”
- (5) In that section, in subsection (5)—
- (a) for “subsection (3)” substitute “ subsection (3)(b) ”; and
  - (b) for “the registration authority” substitute “ the Assembly ”.
- (6) In section 16 (regulations about registration), for subsection (3) substitute—
- “(3) Persons registered under this Part must also pay to the registration authority, at such time as may be prescribed, an annual fee—
- (a) of such amount as may be determined under section 113A, where the registration authority is the CHAI or the CSCI; and
  - (b) of such amount as may be prescribed, where the registration authority is the Assembly.”
- (7) In section 22(7)(i) (fees in respect of notification of variation of corporate ownership etc), for the words from “of a fee” to the end substitute “, in respect of any notification required to be made by virtue of paragraph (h), of a fee of—
- (i) such amount as may be determined under section 113A, where notification is made to the CHAI or the CSCI; or
  - (ii) the prescribed amount, where notification is made to the Assembly”.

#### Commencement Information

- I21** S. 105 partly in force; s. 105 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I22** S. 105(1) in force at 30.10.2005 for specified purposes for E. by [S.I. 2005/2925](#), [art. 2\(1\)\(b\)](#)
- I23** S. 105(1) in force at 1.4.2006 for specified purposes by [S.I. 2005/2925](#), [art. 2\(2\)](#)
- I24** S. 105(1) in force at 27.6.2006 for specified purposes for E. by [S.I. 2006/1680](#), [art. 2\(1\)](#)
- I25** S. 105(1)(6) in force at 1.8.2006 in so far as not already in force by [S.I. 2006/1680](#), [art. 2\(2\)\(b\)](#)
- I26** S. 105(2) in force at 30.10.2005 for specified purposes for E. by [S.I. 2005/2925](#), [art. 2\(1\)\(b\)](#)
- I27** S. 105(3)-(7) in force at 1.4.2006 by [S.I. 2005/2925](#), [art. 2\(2\)](#)
- I28** S. 105(3)-(5)(7) in force at 1.8.2006 in so far as not already in force by [S.I. 2006/1680](#), [art. 2\(2\)\(a\)](#)
- I29** S. 105(6) in force at 27.6.2006 for specified purposes for E. by [S.I. 2006/1680](#), [art. 2\(1\)](#)

#### Miscellaneous

### 106 Meaning of “independent medical agency”

In section 2(5) of the Care Standards Act 2000 (c. 14) (an “independent medical agency” does not include an independent clinic), after “clinic” insert “ or an independent hospital ”.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

#### Commencement Information

**I30** S. 106 in force at 1.4.2004 by S.I. 2004/759, art. 3(1)

**I31** S. 106 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

### 107 Children’s homes providing secure accommodation

- (1) In section 4 of the Care Standards Act 2000 (c. 14) (basic definitions), in subsection (8) (a) (references to a description of establishment), after “children’s home” insert “, a children’s home providing accommodation for the purpose of restricting liberty,”.
- (2) In section 22 of that Act (regulations), in subsection (8) (regulations relating to children’s homes)—
  - (a) omit paragraph (a), and
  - (b) in paragraph (b), for “mentioned in paragraph (a)” substitute “ of restricting liberty ”.

#### Commencement Information

**I32** S. 107 in force at 1.4.2006 for W. by S.I. 2005/3285, art. 2(2)(c)

### 108 Information and inspection

- (1) Section 31 of the Care Standards Act 2000 (inspections by persons authorised by registration authority) is amended as follows.
- (2) After subsection (1), insert—
 

“(1A) The power under subsection (1) to require the provision of information includes—

  - (a) power to require the provision of copies of any documents or records (including medical and other personal records); and
  - (b) in relation to records kept by means of a computer, power to require the provision of the records in legible form.”
- (3) In subsection (3)—
  - (a) in paragraph (b), for “(other than medical records)” substitute “ (including medical and other personal records) ”; and
  - (b) in paragraph (d), for “employed” substitute “ working ”.
- (4) In subsection (6), omit “and inspect any medical records relating to his treatment in the establishment”.

#### Commencement Information

**I33** S. 108 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

**I34** S. 108 in force at 1.4.2004 by S.I. 2004/759, art. 5(2)(a)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

## 109 Assembly: duties relating to children

In section 8 of the Care Standards Act 2000 (general functions of the Assembly), at the end insert—

- “(6) The Assembly must have particular regard to the need to safeguard and promote the rights and welfare of children in the exercise of—
- (a) its functions exercisable by virtue of section 5(b) and subsections (1) to (3) of this section; and
  - (b) any other functions exercisable by the Assembly corresponding to functions exercisable by the CSCI in relation to England.”

### Commencement Information

**I35** S. 109 in force at 1.4.2004 by S.I. 2004/873, art. 2(d)

## CHAPTER 8

### OTHER FUNCTIONS OF CSCI

## F23 110 Boarding schools and colleges

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### Textual Amendments

**F23** S. 110 repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 89, Sch. 18 Pt. 5; S.I. 2007/935, art. 5(gg)(ii)

## 111 Boarding schools and colleges: reports

In section 87 of the Children Act 1989, after subsection (9) insert—

- “(9A) Where the Commission or the National Assembly for Wales exercises the power conferred by subsection (5) in relation to a child, it must publish a report on whether the child’s welfare is adequately safeguarded and promoted while he is accommodated by the school or college.
- (9B) Where the Commission or the National Assembly for Wales publishes a report under this section, it must—
- (a) send a copy of the report to the school or college concerned; and
  - (b) make copies of the report available for inspection at its offices by any person at any reasonable time.
- (9C) Any person who requests a copy of a report published under this section is entitled to have one on payment of such reasonable fee (if any) as the Commission or the National Assembly for Wales (as the case may be) considers appropriate.”

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

#### Commencement Information

**I36** S. 111 in force at 1.4.2004 by S.I. 2004/759, art. 7

**I37** S. 111 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

### <sup>F24</sup>112 Secure training centres

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#### Textual Amendments

**F24** S. 112 repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 90, Sch. 18 Pt. 5; S.I. 2007/935, art. 5(gg)(ii)

## CHAPTER 9

### COMPLAINTS

#### 113 Complaints about health care

- (1) The Secretary of State may by regulations make provision about the handling and consideration of complaints made under the regulations about—
  - (a) the exercise of any of the functions of an English NHS body or a cross-border SHA;
  - (b) the provision of health care by or for such a body;
  - (c) the provision of services by such a body or any other person in pursuance of arrangements made by the body under [<sup>F25</sup>section 75 of the National Health Service Act 2006 or section 33 of the National Health Service (Wales) Act 2006] in relation to the exercise of the health-related functions of a local authority.
- (2) The Assembly may by regulations make provision about the handling and consideration of complaints made under the regulations about—
  - (a) the exercise of any of the functions of a Welsh NHS body;
  - (b) the provision of health care by or for a Welsh NHS body;
  - (c) the provision of services by a Welsh NHS body or any other person in pursuance of arrangements made by the body under section 31 of the Health Act 1999 in relation to the exercise of the health-related functions of a local authority.
- (3) Regulations under this section may provide for a complaint to be considered by one or more of the following—
  - (a) an NHS body;
  - <sup>F26</sup>(b) .....
  - (c) an independent lay person;
  - (d) an independent panel established under the regulations;
  - (e) any other person or body.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (4) Regulations under this section may make provision for a complaint or any matter raised by a complaint—
- (a) [<sup>F27</sup>in the case of regulations under subsection (1),] to be referred to a Health Service Commissioner for him to consider whether to investigate the complaint or matter under the Health Service Commissioners Act 1993 (c. 46) (and to be treated by him as a complaint duly referred to him under section 10 of that Act);
  - [<sup>F28</sup>(aa) in the case of regulations under subsection (2), to be referred to the Public Services Ombudsman for Wales for him to consider whether to investigate the complaint or matter under the Public Services Ombudsman (Wales) Act 2005 (and to be treated by him as a complaint duly referred to him under section 2(3) of that Act);]
  - (b) to be referred to any other person or body for him or it to consider whether to take any action otherwise than under the regulations.

**Textual Amendments**

- F25** Words in s. 113(1)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 242](#) (with Sch. 3 Pt. 1)
- F26** S. 113(3)(b) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 45, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(r\), 36](#)
- F27** Words in s. 113(4)(a) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 75\(a\); S.I. 2005/2800, art. 5\(1\)\(3\)](#)
- F28** S. 113(4)(aa) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 75\(b\); S.I. 2005/2800, art. 5\(1\)\(3\)](#)

**Commencement Information**

- I38** S. 113 partly in force; s. 113 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I39** S. 113(1)(3)(4) in force at 1.9.2006 for E. in so far as not already in force by [S.I. 2006/1680, art. 3\(a\)](#)

**114 Complaints about social services**

- (1) The Secretary of State may by regulations make provision about the handling and consideration of complaints made under the regulations about—
- (a) the discharge by a local authority in England of any of its social services functions;
  - (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;
  - (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under [<sup>F29</sup>section 75 of the National Health Service Act 2006 or section 33 of the National Health Service (Wales) Act 2006] in relation to the functions of an NHS body (within the meaning of that section).
- (2) Regulations under subsection (1) may provide for a complaint to be considered by one or more of the following—
- (a) the local authority in respect of whose functions the complaint is made;
  - [<sup>F30</sup>(b) . . . . .]
  - (c) an independent panel established under the regulations;
  - (d) any other person or body.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (3) The Assembly may by regulations make provision about the handling and consideration of complaints made under the regulations about—
- (a) the discharge by a local authority in Wales of any of its social services functions;
  - (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;
  - (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under section 31 of the Health Act 1999 (c. 8) in relation to the functions of an NHS body (within the meaning of that section).
- (4) Regulations under subsection (3) may provide for a complaint to be considered by one or more of the following—
- (a) the local authority in respect of whose functions the complaint is made;
  - (b) an independent panel established under the regulations;
  - (c) any other person or body.
- (5) Regulations under this section may provide for a complaint or any matter raised by a complaint—
- (a) in the case of regulations under subsection (1), to be referred to a Local Commissioner under Part 3 of the Local Government Act 1974 (c. 7)<sup>F31</sup>... for him to consider whether to investigate the complaint or matter under that Part [<sup>F32</sup>(and for the complaint to be treated as satisfying sections 26A and 26B of that Act)];
  - <sup>F33</sup>(b) in the case of regulations under subsection (3), to be referred to the Public Services Ombudsman for Wales for him to consider whether to investigate the complaint or matter under the Public Services Ombudsman (Wales) Act 2005 (and to be treated by him as a complaint duly referred to him under section 2(3) of that Act).]
  - (c) to be referred to any other person or body for him or it to consider whether to take any action otherwise than under the regulations.
- (6) Regulations under this section may not make provision about complaints capable of being considered as representations under section 24D or section 26 of the Children Act 1989 (c. 41).

#### Textual Amendments

- F29** Words in s. 114(1)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 243](#) (with Sch. 3 Pt. 1)
- F30** S. 114(2)(b) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 46, Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(r), 36
- F31** Words in s. 114(5)(a) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 76\(a\), Sch. 7](#); S.I. 2005/2800, art. 5(1)(3)
- F32** Words in s. 114(5)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 18](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F33** S. 114(5)(b) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 76\(b\)](#); S.I. 2005/2800, art. 5(1)(3)

#### Commencement Information

- I40** S. 114 partly in force; s. 114 in force at Royal Assent for certain purposes, see s. 199(1)(4)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- I41** S. 114(1)(2)(5)(6) in force at 1.9.2006 for E. in so far as not already in force by [S.I. 2006/1680](#), [art. 3\(b\)](#)
- I42** S. 114(3)(4) in force at 1.4.2006 for W. so far as not already in force by [S.I. 2005/3285](#), [art. 2\(2\)\(a\)](#)
- I43** S. 114(5) in force at 1.4.2006 for W. so far as not already in force by [S.I. 2005/3285](#), [art. 2\(2\)\(c\)](#)

## 115 Complaints regulations: supplementary

- (1) Regulations under subsection (1) or (2) of section 113 or under subsection (1) or (3) of section 114 (“the regulations”) may, without prejudice to the generality of the subsection under which they are made, make the following provision.
- (2) The regulations may make provision about—
- (a) the persons who may make a complaint;
  - (b) the complaints which may, or may not, be made under the regulations;
  - (c) the persons to whom complaints may be made;
  - (d) complaints which need not be considered;
  - (e) the period within which complaints must be made;
  - (f) the procedure to be followed in making, handling and considering a complaint;
  - (g) matters which are excluded from consideration;
  - (h) the making of a report or recommendations about a complaint;
  - (i) the action to be taken as a result of the complaint.
- (3) The regulations may require—
- (a) the making of a payment, in relation to the consideration of a complaint under the regulations, by any person or body in respect of whom the complaint is made;
  - (b) any such payment to be—
    - (i) made to such person or body as may be specified in the regulations; and
    - (ii) of such amount as may be specified in, or calculated or determined under, the regulations;
  - (c) an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.
- (4) The regulations may require any person or body who handles or considers complaints under the regulations to make information available to the public about the procedures to be followed under the regulations.
- (5) The regulations may also—
- (a) provide for different parts or aspects of a complaint to be treated differently;
  - (b) require the production of information or documents in order to enable a complaint to be properly considered;
  - (c) authorise the disclosure of information or documents relevant to a complaint to a person or body—
    - (i) who is considering a complaint under the regulations; or
    - (ii) to whom a complaint has been referred;
 and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (6) The regulations may make provision about complaints which raise both matters falling to be considered under the regulations and matters falling to be considered under other statutory complaints procedures, including in particular provision for—
- (a) enabling such a complaint to be made under the regulations; and
  - (b) securing that matters falling to be considered under other statutory complaints procedures are treated as if they had been raised in a complaint made under the appropriate procedures;
- and in this subsection “statutory complaints procedures” means procedures established by or under any enactment.

#### Commencement Information

**I44** S. 115 partly in force; s. 115 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I45** S. 115 in force at 1.9.2006 for E. in so far as not already in force by [S.I. 2006/1680](#), [art. 3\(c\)](#)

**I46** S. 115(1)(2)(4)-(6) in force at 1.4.2006 for W. so far as not already in force by [S.I. 2005/3285](#), [art. 2\(2\)\(c\)](#)

## 116 Further consideration of representations under the Children Act 1989

<sup>F34</sup>(1) .....

- (2) After section 26ZA of that Act (as inserted by subsection (1)) insert—

#### “26ZB Representations: further consideration (Wales)

- (1) The Secretary of State may by regulations make provision for the further consideration of representations which have been considered by a local authority in Wales under section 24D or section 26.
- (2) The regulations may in particular make provision—
  - (a) for the further consideration of a representation by an independent panel established under the regulations;
  - (b) about the procedure to be followed on the further consideration of a representation;
  - (c) for the making of recommendations about the action to be taken as the result of a representation;
  - (d) about the making of reports about a representation;
  - (e) about the action to be taken by the local authority concerned as a result of the further consideration of a representation;
  - (f) for a representation to be referred back to the local authority concerned for reconsideration by the authority.
- (3) The regulations may require—
  - (a) the making of a payment, in relation to the further consideration of a representation under this section, by any local authority in respect of whose functions the representation is made;
  - (b) any such payment to be—
    - (i) made to such person or body as may be specified in the regulations;



*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

- (ii) of such amount as may be specified in, or calculated or determined under, the regulations; and
- (c) for an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.
- (4) The regulations may also—
- (a) provide for different parts or aspects of a representation to be treated differently;
  - (b) require the production of information or documents in order to enable a representation to be properly considered;
  - (c) authorise the disclosure of information or documents relevant to a representation to a person or body who is further considering a representation under the regulations;
- and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.”
- (3) In section 26A of that Act (requirement on local authorities to provide assistance for persons making representations under section 24D and section 26), after subsection (2) insert—
- “(2A) The duty under subsection (1) includes a duty to make arrangements for the provision of assistance where representations under section 24D or 26 are further considered under section 26ZA or 26ZB.”

#### Textual Amendments

**F34** S. 116(1) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), art. 5(ii)

#### Commencement Information

**I47** S. 116 partly in force; s. 116 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I48** S. 116(2) in force at 1.4.2006 by [S.I. 2005/3285](#), art. 2(2)(b)

**I49** S. 116(3) in force at 1.4.2006 for W. by [S.I. 2005/3285](#), art. 2(2)(c)

## 117 Representations relating to special guardianship support services

- (1) In section 26 of the Children Act 1989 (c. 41) (representations), after subsection (3B) insert—
- “(3C) The duty under subsection (3) extends to any representations (including complaints) which are made to the authority by—
- (a) a child with respect to whom a special guardianship order is in force,
  - (b) a special guardian or a parent of such a child,
  - (c) any other person the authority consider has a sufficient interest in the welfare of such a child to warrant his representations being considered by them, or
  - (d) any person who has applied for an assessment under section 14F(3) or (4),
- about the discharge by the authority of such functions under section 14F as may be specified by the Secretary of State in regulations.”

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

(2) Section 14G of that Act (special guardianship support services: representations) shall cease to have effect.

#### Commencement Information

- I50** S. 117 partly in force; s. 117 in force at Royal Assent for certain purposes, see s. 199(1)(4)  
**I51** S. 117 in force at 30.12.2005 for W. by S.I. 2005/3285, art. 2(1)  
**I52** S. 117(1) in force at 17.1.2005 for specified purposes for E. by S.I. 2005/38, art. 2(a)  
**I53** S. 117(1) in force at 30.12.2005 for E. so far as not already in force by S.I. 2005/2925, art. 8  
**I54** S. 117(2) in force at 17.1.2005 for E. by S.I. 2005/38, art. 2(b)

### 118 Complaints about handling of complaints

In section 3 of the Health Service Commissioners Act 1993 (c. 46) (remit of Commissioners), after subsection (1D) insert—

“(1E) Where a complaint is duly made to a Commissioner by or on behalf of a person that the person has sustained injustice or hardship in consequence of maladministration by any person or body in the exercise of any function under section 113 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care), the Commissioner may, subject to the provisions of this Act, investigate the alleged maladministration.”

#### Commencement Information

- I55** S. 118 in force at 1.6.2004 by S.I. 2004/759, art. 8

### 119 Complaints: data protection

In section 31 of the Data Protection Act 1998 (c. 29) (regulatory activity) at the end insert—

“(6) Personal data processed for the purpose of the function of considering a complaint under section 113(1) or (2) or 114(1) or (3) of the Health and Social Care (Community Health and Standards) Act 2003, or section 24D, 26, 26ZA or 26ZB of the Children Act 1989, are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of that function.”

#### Commencement Information

- I56** S. 119 in force at 1.6.2004 by S.I. 2004/759, art. 7

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

## CHAPTER 10

### SUPPLEMENTARY AND GENERAL

#### *Joint working*

#### <sup>F35</sup>120 Co-operation etc

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F35</sup>121 Reviews and investigations

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F35</sup>122 Joint annual reviews

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F35</sup>123 Power to assist

.....

##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

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### *Arrangements with public authorities*

#### **F35 124 Arrangements with Ministers etc: CHAI**

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### **F35 125 Arrangements with Ministers etc: CSCI**

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### **F35 126 Arrangements with the Isle of Man and Channel Islands: CHAI**

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### **F35 127 Arrangements with the Isle of Man and Channel Islands: CSCI**

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##### **Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

### *Reports*

#### **F35 128 Reports: CHAI**

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 129 Reports: CSCI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Relationship with government*

**F35 130 Duty to have regard to government policy: CHAI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 131 Duty to have regard to government policy: CSCI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 132 Failure in discharge of functions: CHAI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**F35 133 Failure in discharge of functions: CSCI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Inquiries*

**F35 134 Inquiries: CHAI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 135 Inquiries: CSCI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Information*

**F36 136 Disclosure of information obtained by CHAI**

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**Textual Amendments**

**F36** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F37 137 Section 136: defence**

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F37** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 138 Information obtained by CHAI: supplementary**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 139 Information obtained by CSCI: supplementary**

.....

**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 140 Code of practice: CHAI**

.....

**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F35 141 Code of practice: CSCI**

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**Textual Amendments**

**F35** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

*Wales: supplementary*

## 142 Annual reports of Assembly

As soon as possible after the end of each financial year of the Assembly, the Assembly must make and publish a report or reports on—

- (a) what it has found during the year in the course of exercising—
  - (i) its functions under Chapter 4 and 6 of this Part (other than any function of making regulations);
  - (ii) its functions exercisable by virtue of section 5(b) and 8(1) to (3) of the Care Standards Act 2000 (c. 14);
- (b) the way in which the Assembly has during the year exercised those functions.

### Commencement Information

**I57** S. 142 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(d\)](#)

## [<sup>F38</sup>143 Use by Welsh Ministers of information

- (1) The Welsh Ministers may use any information they obtain, or documents produced to them, in the course of exercising any function of the Welsh Ministers referred to in any paragraph of subsection (2) for the purposes of any function of the Welsh Ministers referred to in any other paragraph of that subsection.
- (2) The functions of the Welsh Ministers referred to in subsection (1) are—
  - (a) their functions under Chapter 4 of this Part;
  - (b) their functions under Chapter 6 of this Part;
  - (c) their functions exercisable by virtue of section 5(1)(b) or 8(1) to (3) of the Care Standards Act 2000;
  - (d) their functions under section 80 of the Children Act 1989;
  - (e) their functions under the Mental Health Act 1983 in their capacity as the regulatory authority (within the meaning of that Act);
  - (f) any functions exercisable by them by virtue of paragraph 163(1) of Schedule A1 to the Mental Capacity Act 2005.
- (3) References to functions in subsection (2) do not include functions of making regulations.]

### Textual Amendments

**F38** S. 143 substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 48](#); [S.I. 2009/462](#), [art. 2\(1\)](#), [Sch. 1 para. 35\(t\)](#)

## <sup>F39</sup>144 Inquiries: Wales

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

**Textual Amendments**

**F39** S. 144 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 49, Sch. 15 Pt. 1](#); [S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)

**Commencement Information**

**I58** S. 144 in force at 1.4.2004 by [S.I. 2004/873, art. 2\(d\)](#)

<sup>F40</sup> **145 Co-operation between Assembly and CHAI**

.....

**Textual Amendments**

**F40** S. 145 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 50, Sch. 15 Pt. 1](#); [S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)

<sup>F41</sup> **145A Duties in connection with the Auditor General for Wales**

.....

**Textual Amendments**

**F41** S. 145A repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 50, Sch. 15 Pt. 1](#); [S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)

*General*

**146 Offences by bodies corporate**

- (1) This section applies where any offence under this Part is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any director, manager, or secretary of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,
 he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (3) The reference in subsection (2) to a director, manager or secretary of a body corporate includes a reference—
  - (a) to any other similar officer of the body; and
  - (b) where the body is a local authority or NHS body, to any officer or member of the authority or NHS body.

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

### Commencement Information

**I59** S. 146 in force at 1.4.2004 by [S.I. 2004/759, art. 5\(2\)\(a\)](#)

## 147 Minor and consequential amendments

Schedule 9 (which makes minor and consequential amendments relating to this Part) has effect.

### Commencement Information

**I60** S. 147 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346, art. 3\(b\)](#)

**I61** S. 147 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346, art. 5\(b\)](#)

**I62** S. 147 in force at 11.3.2004 for specified purposes for E. by [S.I. 2004/759, art. 4\(1\)\(b\)](#)

**I63** S. 147 in force at 11.3.2004 for specified purposes by [S.I. 2004/759, art. 5\(1\)\(b\)](#)

**I64** S. 147 in force at 1.4.2004 for specified purposes by [S.I. 2004/759, art. 9](#)

**I65** S. 147 in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/759, art. 4\(2\)\(b\)](#)

**I66** S. 147 in force at 1.4.2004 for specified purposes by [S.I. 2004/759, art. 5\(2\)\(b\)](#)

**I67** S. 147 in force at 1.6.2004 for specified purposes by [S.I. 2004/759, art. 8](#)

**I68** S. 147 in force at 15.1.2007 for specified purposes for E. by [S.I. 2006/3397, art. 5](#)

## 148 Interpretation of Part 2

In this Part—

“Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England<sup>F42</sup>...;

<sup>F43</sup> <sup>F43</sup> <sup>F43</sup> <sup>F43</sup>  
... ..

“cross-border SHA” means a Special Health Authority not performing functions only or mainly in respect of England or only or mainly in respect of Wales;

<sup>F44</sup> <sup>F44</sup> <sup>F44</sup> <sup>F44</sup>  
... ..

“English local authority social service” means—

- (a) a service which is provided, in any place, by a local authority in England in the exercise of any of its social services functions;
- (b) a service which is provided, in any place, by another person pursuant to arrangements made by a local authority in England in the exercise of its social services functions;
- (c) a service which—
  - (i) is provided, in any place, by a local authority in England, or by another person pursuant to arrangements made by a local authority in England, under section 2(1)(b) of the Local Government Act 2000 (c. 22); and
  - (ii) is similar in nature to a service which could be provided by the authority in the exercise of any of its social services functions<sup>F45</sup>but does not include anything which may be inspected by Her Majesty's Chief Inspector of Education, Children's Services and Skills under Chapter 4 of Part 8 of the Education and Inspections Act 2006].

“English NHS body” means—

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*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

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- (a) a Primary Care Trust;
- (b) a Strategic Health Authority;
- (c) an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;
- (d) an NHS foundation trust;
- (e) a Special Health Authority performing functions only or mainly in respect of England;

F46 F46 F46 F46 F46 F46 F46  
... ..

- (a) F46 ...
- (b) F46 ...

“health care” has the meaning given by section 45(2);

“local authority” has the same meaning as in the Local Authority Social Services Act 1970 (c. 42) (see section 1 of that Act);

F47 F47 F47  
... ..

“NHS body” means—

- (a) an English NHS body;
- (b) a Welsh NHS body;
- (c) a cross-border SHA;

“NHS trust” has the same meaning as in [F48the 2006 Act];

“personal records” includes medical records;

“prescribed” means prescribed by regulations made by—

- (a) the Secretary of State;
- (b) in the case of sections 63, 75 and 101, the Assembly;

“regulator” means the Independent Regulator of NHS Foundation Trusts;

“social services functions” has the same meaning as in the Local Authority Social Services Act 1970;

[F49 “Welsh local authority social service” means—

- (a) a service provided, in any place, by a local authority in Wales in the exercise of any of its social services functions;
- (b) a service provided, in any place, by another person pursuant to arrangements made by a local authority in Wales in the exercise of its social services functions;
- (c) a service which—
  - (i) is provided, in any place, by a local authority in Wales, or by another person pursuant to arrangements made by a local authority in Wales, under section 2(1)(b) of the Local Government Act 2000 (c. 22); and
  - (ii) is similar in nature to a service which could be provided by the authority in the exercise of any of its social services functions;

“Welsh NHS body” means—

- (a) a Local Health Board;
- (b) an NHS trust all or most of whose hospitals, establishments and facilities are situated in Wales;
- (c) a Special Health Authority performing functions only or mainly in respect of Wales.]

*Status: Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2. (See end of Document for details)*

### Textual Amendments

- F42** Words in s. 148 repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 9 para. 1\(2\)\(v\)](#), [Sch. 18 Pt. 9](#); S.I. 2008/172, art. 4(a)(n)(i)
- F43** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 51\(a\)](#), [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), [Sch. 1 paras. 35\(t\)](#), 36
- F44** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 51\(b\)](#), [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), [Sch. 1 paras. 35\(t\)](#), 36
- F45** Words in s. 148 added (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 93\(2\)](#); S.I. 2007/935, art. 5(gg)
- F46** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 51\(c\)](#), [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), [Sch. 1 paras. 35\(t\)](#), 36
- F47** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 51\(d\)](#), [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), [Sch. 1 paras. 35\(t\)](#), 36
- F48** Words in s. 148 substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 246](#) (with [Sch. 3 Pt. 1](#))
- F49** Words in s. 148 added (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 93\(3\)](#); S.I. 2007/935, art. 5(gg)

### Commencement Information

- I69** S. 148 partly in force; s. 148 in force at Royal Assent for certain purposes, see [s. 199\(1\)\(4\)](#)
- I70** S. 148 in force at 1.1.2004 by [S.I. 2003/3346](#), [art. 4](#)

PROSPECTIVE

## 149 References to the provision of health care

- (1) For the purposes of this Part, a person provides health care for another person if he provides it—
- at the direction of the other person;
  - in accordance with, or by virtue of, an agreement or arrangements made by the other person (whether or not with the person providing the health care); or
  - otherwise on behalf of the other person.
- (2) References in this section to the provision of health care include references to its provision jointly with another person.

**Status:**

Point in time view as at 06/04/2010. This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 2.