

EXPLANATORY NOTES

HEALTH AND SOCIAL CARE ACT 2008

INTRODUCTION

BACKGROUND AND SUMMARY

PART 1 – THE CARE QUALITY COMMISSION

PART 2 – REGULATION OF HEALTH PROFESSIONS AND HEALTH AND SOCIAL CARE WORKFORCE

PART 3 – PUBLIC HEALTH PROTECTION

PART 4 – HEALTH IN PREGNANCY GRANT

PART 5 – MISCELLANEOUS

Duty of Primary Care Trusts

Pharmaceutical services

Indemnity schemes in connection with provision of health services

Weighing and measuring of children

Human Rights Act 1998: provision of certain social care to be public function

Direct payments in lieu of provision of care services

Abolition of maintenance liability of relatives

Ordinary residence for certain purposes of National Assistance Act 1948 etc.

Financial assistance related to provision of health or social care services

National Information Governance Board for Health and Social Care

Functions of the Health Protection Agency in relation to biological substances

PART 6 – GENERAL

OVERVIEW OF THE STRUCTURE

TERRITORIAL EXTENT

The Care Quality Commission

Regulation of Health Professions and Health and Social Care Workforce

Public Health Protection

Health in Pregnancy Grant

Amendments relating to National Health Service

Weighing and measuring of children

Social care

Financial assistance related to provision of health or social care services

National Information Governance Board for Health and Social Care

Functions of the Health Protection Agency in relation to biological substances

Territorial application: Wales

PART 1 – THE CARE QUALITY COMMISSION

Chapter 1 – Introductory

Section 1: The Care Quality Commission

Schedule 1: The Care Quality Commission

Section 2: The Commission's functions

Section 3: The Commission's objectives

Section 4: Matters to which the Commission must have regard

Section 5: Statement on user involvement

Section 6: Transfers of property, rights and liabilities

Schedule 2: Transfers of property and staff etc.

Chapter 2 – Registration in Respect of Provision of Health Or Social Care

Introductory

Sections 8 and 9: Introductory

Registration of persons carrying on regulated activities

Sections 10 to 12: Registration of persons carrying on regulated activities

Registration of managers

Sections 13 to 15: Registration of managers

Further provision about registration as a service provider or manager

Section 16: Regulations about registration

Sections 17 and 18: Cancellation / suspension of registration

Section 19: Applications by registered persons

Regulation, code of practice and guidance

Sections 20 to 25: Requirements in relation to regulated activities

Registration procedure

Sections 26 and 27: Notices of proposals and rights to make representations

Section 28: Notice of decisions

Section 29: Warning notice

Section 30: Urgent procedure for cancellation

Section 31: Urgent procedure for suspension, variation etc.

Section 32: Appeals to the Tribunal

Offences

Sections 33 to 37: Offences

Information to be available to public

Section 38: Provision of copies of registers

Miscellaneous

Section 39: Bodies required to be notified of certain matters

Sections 40 to 42: Miscellaneous

Power to modify provisions of Chapter

Section 43: Power to modify Chapter in relation to newly regulated activities

Chapter 3 – Quality of Health and Social Care

Health care standards

Section 45: Standards set by Secretary of State

Reviews and investigations

Section 46: Periodic reviews

Section 47: Frequency and period of review

Section 48: Special reviews and investigations

Section 49: Power to extend periodic review function

Section 50: Failings by English local authorities

Section 51: Failings by Welsh NHS bodies

Chapter 4 – Functions under Mental Health Act 1983

Section 52 and Schedule 3 – Transfer and amendment of functions under Mental Health Act 1983

Chapter 5 – Further Functions

Section 53: Information and advice

Section 54: Studies as to economy, efficiency etc.

Section 55: Publication of results of studies under s.54

Section 56: Role of Audit Commission

Section 57: Reviews of data, studies and research

Section 58: Publication of information

Section 59: Additional functions

Chapter 6 – Miscellaneous and General

Inspections

Sections 60 and 61: Inspections

Powers of entry etc.

Sections 62 to 65: Powers of entry etc.

Interaction with other authorities

Section 66: Interaction with other authorities

Schedule 4: Interaction with other authorities

Section 67: Co-ordination of reviews or assessments

Section 68: Avoidance of unreasonable burdens in exercise of regulatory powers

Section 69: Co-operation between the Commission and Welsh Ministers

Section 70: Co-operation between the Commission and the Independent Regulator of NHS Foundation Trusts

Section 71: Provision of information by Auditor General for Wales

Section 72: Provision of material to the Comptroller and Auditor General

Sections 73 and 74: Arrangements with Ministers

Inquiries

Section 75: Inquiries

Information

Sections 76 and 77: Disclosure of confidential personal information / Defence

Section 78: Use of information etc.

Section 79: Permitted disclosures

Section 80: Code of practice on confidential personal information

Further provisions about functions of Commission

Section 81: Publication of programme of reviews etc.

Section 82: Failure by the Commission in discharge of its functions

Section 83: Reports for each financial year etc.

Section 84: Reports and information

Fees

Section 85: Fees

Enforcement

Sections 86 and 87: Penalty notices

Section 88: Guidance by the Commission in relation to enforcement action

Section 89: Publication of information relating to enforcement action etc.

Section 90: Proceedings for offences

Section 91: Offences by bodies corporate

Section 92: Unincorporated associations

Service of documents

Sections 93 and 94: Service of documents

Further amendments

Section 95 and Schedule 5: Further amendments relating to Part 1

Crown application

Section 96: Application of Part 1 to Crown

Interpretation

Section 97: General interpretation of Part 1

PART 2 – REGULATION OF HEALTH PROFESSIONS AND HEALTH AND SOCIAL CARE WORKFORCE

The Office of the Health Professions Adjudicator

Section 98: The Office of the Health Professions Adjudicator

Schedule 6: The Office of the Health Professions Adjudicator

Section 99: Functions under Medical Act 1983 and Opticians Act 1989

Schedule 7

Section 100: Fitness to practise panels

Section 101: Lists of persons eligible for membership of fitness to practise panels

Section 102: Further provisions about listed persons

Section 103: Legal assessors

Section 104: Clinical and other specialist advisers

Section 105 Procedural rules

Section 106: Administration of oaths and issuing of witness summonses etc.

Section 107: Duty to inform the public

Section 108: Duty to consult

Section 109: OHPA rules: supplementary

Section 110: Fees payable by General Medical Council and General Optical Council

Amendments of Part 3 of Health Act 1999

Section 111: Extension of powers under s.60 of Health Act 1999

Schedule 8: Extension of powers under s.60 of Health Act 1999

Section 112: Standard of proof in fitness to practise proceedings

Council for Healthcare Regulatory Excellence

Section 113: Council for Healthcare Regulatory Excellence

Section 114: Constitution etc. of the Council

Section 115: Powers and duties of Council

Section 116: Powers of Secretary of State and devolved administrations

Section 117: Duty to inform and consult the public

Section 118: Reference of cases by Council to court

Conduct and performance of medical practitioners and other health care workers

Section 119: Responsible officers and their duties relating to medical profession

New section 45A of the Medical Act 1983 – requirement to nominate or appoint responsible officer

New section 45B of the Medical Act 1983 – responsibilities of responsible officer

New section 45C of the Medical Act 1983 – further provisions

New section 45D of the Medical Act 1983 – Crown application

New section 45E of the Medical Act 1983 – regulations under section 45A: supplementary provisions

New section 45F of the Medical Act 1983 – interpretation of Part 5A

Section 120: Additional responsibilities of responsible officers: England and Wales and Northern Ireland

Section 121: Co-operation between prescribed bodies

Section 122: Ss.120 and 121: Crown application

Hearing Aid Council

Section 123: Dissolution of Hearing Aid Council

Regulation of social care workforce

Section 124: Regulation of social care workers

Schedule 9: Regulation of social care workers

Section 125: Standard of proof in proceedings relating to registration of social care worker

Approved mental health professionals

Section 126: Education and training of approved mental health professionals

PART 3 – PUBLIC HEALTH PROTECTION

Section 129: Public health protection

Section 130: Further amendments relating to public health protection

Schedule 11: Public health protection: further amendments

PART 4 – HEALTH IN PREGNANCY GRANT

England, Wales and Scotland

Section 131: Entitlement: Great Britain

Section 132: Administration: Great Britain

Section 133: Penalty: Great Britain

Northern Ireland

Section 134: Entitlement: Northern Ireland

Section 135: Administration: Northern Ireland

Section 136: Penalty: Northern Ireland

Section 137: Northern Ireland: health in pregnancy grant to be excepted matter

Section 138: General and supplementary

PART 5 – MISCELLANEOUS

Amendments relating to National Health Service

Section 139: Duty of Primary Care Trusts

Section 140 and Schedule 12: Pharmaceutical services

Section 141: Remuneration for persons providing pharmaceutical services: appointment of determining authorities

Section 142: Indemnity schemes in connection with provision of health services

Weighing and measuring of children

Sections 143 and 144: Weighing and measuring of children

Social care

Section 145: Human Rights Act 1998: provision of certain social care to be public function

Section 146: Direct payments in lieu of provision of care services

Section 147 and Schedule 13: Abolition of maintenance liability of relatives

Section 148: Ordinary residence for certain purposes of National Assistance Act 1948 etc.

Financial assistance related to provision of health or social care services

Sections 149 and 150: Power of Secretary of State to give financial assistance; Qualifying bodies

Sections 151 and 152: Forms of assistance under s.149; Terms on which assistance under s.149 is given

Section 153: Directions to certain NHS bodies

Section 154: Arrangements with other third parties

Section 155: Power to form a company

Section 156: Interpretation of group of sections

National Information Governance Board for Health and Social Care

Section 157 and section 158: National Information Governance Board for Health and Social Care

Functions of Health Protection Agency in relation to biological substances

Section 159: Functions of Health Protection Agency in relation to biological substances

PART 6 – GENERAL

Section 161: Orders, regulations and directions: general provisions

Section 162: Orders and regulations: Parliamentary control

Section 163: Orders and regulations: control by National Assembly for Wales

Section 164: Regulations: control by Northern Ireland Assembly

Section 165: Directions

Section 166: Repeals

Section 167: Power to make transitional and consequential provision etc.

Section 168: Financial provisions

Section 169: Extent

Section 170: Commencement

Section 171: The appropriate authority by whom commencement order is made

Section 172: Consultation in relation to commencement

HANSARD REFERENCES

ANNEX TERRITORIAL APPLICATION TO WALES AND FUNCTIONS OF THE WELSH MINISTERS