

# HEALTH AND SOCIAL CARE ACT 2008

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## EXPLANATORY NOTES

### TERRITORIAL EXTENT

#### *Registration of persons carrying on regulated activities*

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

120. **Section 10** concerns the requirement for a person (referred to as a “service provider”) to register in respect of the carrying on of a regulated activity. A person in this context means a legal ‘person’, which includes a company. Where two or more legal persons are involved, in different capacities, in carrying on the activities, regulations may set out who will be treated as the service provider. It is intended that this will be the person responsible for ensuring the service complies with the requirements laid out in this (and any other relevant) legislation.
121. Under section 10, carrying on regulated activities without being registered will be an offence. For example, assuming that these were regulated activities, this might cover providing personal care services or carrying on a dialysis unit without being registered with the Commission to provide these services. *Subsection (4)* provides for the offence to be triable either way (by a magistrate’s court or a Crown Court) and sets out the maximum penalties. The penalty on summary conviction is a fine of up to £50,000 or up to 12 months imprisonment, or both. The penalty on conviction on indictment is an unlimited fine or up to 12 months imprisonment, or both. It is intended that the Sentencing Guidelines Council should issue guidelines as to how the courts should exercise their discretion in sentencing.
122. Section 281(5) of the Criminal Justice Act 2003 extends the maximum term of imprisonment on summary conviction from 6 months to 12 months. For offences that occur before that section is commenced the maximum term of 6 months will still apply.
123. **Section 11** sets out the process for applying to register with the Commission. Under section 11, a person required to register to carry on any of the activities set out in regulations under section 8 will have to apply to the Commission, providing such information as the Commission determines is necessary.
124. The Commission may allow an applicant to make a single application to register to provide more than one type of regulated activity. For instance, NHS Trusts provide a wide range of activities. They will have to register separately in relation to each kind of regulated activity they provide, but could do so in one application.
125. **Section 12** deals with the grant or refusal of registration as a service provider. Under section 12, the Commission can only register an applicant if it is satisfied that the applicant is meeting, and will continue to meet, the requirements the Secretary of State has set down in regulations under section 20, as well as any other legislative requirements the Commission considers are relevant. The burden of proof is with the applicant rather than with the Commission. Anyone registered by the Commission to carry on any of the activities covered in regulations under section 8 will receive a certificate of registration.

*These notes refer to the Health and Social Care Act 2008  
(c.14) which received Royal Assent on 21 July 2008*

126. In granting registration as a service provider, the Commission can impose any conditions it thinks are necessary. Conditions may limit the types of services that a service provider may provide and where they may be provided. For example, the Commission will be able to impose conditions on the provision of care in residential homes, the effect of which would be to specify the categories of users of services and the number of residents that may be accommodated.
127. The Commission may also impose a specific condition to take account of the circumstances of a particular case. For example, there might be a condition, the effect of which is that the provider is only permitted to operate from three specified sites. If the service provider is required under section 13 to appoint a registered manager, then this would also be a condition of their registration. The Commission can change the conditions of a service provider's registration at any time, which would allow additional conditions to be imposed. For example, there might be a condition requiring a particular hospital ward to be closed, or a restriction preventing further admissions until a breach of registration requirements has been corrected.