

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

TERRITORIAL EXTENT

Further provision about registration as a service provider or manager

Section 16: Regulations about registration

134. **Section 16** provides a power to make regulations on the details of the registration process. Regulations may be made under *paragraph (a)* to set out what information the Commission needs to include on the register. Although the Commission will determine what must be included in applications to register, regulations may be made under *paragraphs (b) and (c)* to cover issues such as requirements to attend interviews or to notify the Commission of any relevant change in circumstances following the submission of the application. Under *paragraph (d)*, regulations may set out requirements for registered persons to provide the Commission with an address for the service of documents.

Sections 17 and 18: Cancellation / suspension of registration

135. **Section 17** gives the Commission the power to cancel the registration of a manager or service provider where:
- the person registered has been convicted of or admitted a relevant offence;
 - any other person has been convicted of a relevant offence in relation to the regulated activity;
 - the regulated activity is being or has been carried on in any way that is not in accordance with the conditions of registration or requirements under Chapters 2 or 6 or requirements under other legislation which the Commission considers to be relevant.
136. The section defines relevant offences as:
- offences under Part 1 of the Act or regulations made under it;
 - offences under the Registered Homes Act 1984 or Part 2 of the Care Standards Act 2000 (or regulations made under them);
 - such other offences as the Commission considers to be relevant.
137. Further grounds for cancelling registration may be specified in regulations. For instance, regulations may require that all staff receive appropriate training in handling medicines, and state that failure to provide this training would be grounds for cancellation.
138. Cancellation of registration would not normally be the first step in formal enforcement action. It is more likely to be used where other actions, such as issuing a warning notice or penalty notice or prosecution for an offence, have failed to ensure compliance, though this will depend on the severity of the breach. If a registered service provider or manager

is convicted of a relevant offence, such as breaching a condition of registration (an offence under section 33) and fails to remedy the breach, the Commission could then cancel the person's registration.

139. The Commission will also have the power to suspend a person's registration as a service provider or a manager under section 18 for a fixed period of time if they are failing to comply with the requirements of Chapter 2, or a requirement imposed by or under Chapter 6, or requirements of any other relevant legislation. In this instance the person would continue to be registered but could not carry on or manage the regulated activities in respect of which they are registered until the end of the suspension. Neither could they hold themselves out as being registered to carry on these activities.
140. Under section 17 the Commission must cancel the registration of a manager in respect of a regulated activity where there is no longer a registered service provider in respect of that activity, or a registered manager condition ceases to apply to the registration of the service provider.

Section 19: Applications by registered persons

141. **Section 19** enables registered service providers and registered managers to apply: to change the conditions of their registration (for example to change the number of people they are registered to accommodate); voluntarily to cancel their registration (for example, if they plan to close or sell the business); or to amend or lift any suspension of their registration (for example, if they believe they can demonstrate that they are once again complying with any relevant requirements).
142. It is not, however, possible for a service provider to apply to change any mandatory condition imposed as a result of regulations made under section 13 requiring him to appoint a registered manager (*subsection (1)(a)*). Neither is it possible for either a service provider or a manager to apply to voluntarily cancel their registration if the Commission has given notice that it intends to, or has decided to, cancel it already (*subsections (2) and (3)*).
143. If the Commission decides to grant an application to change conditions of registration or to amend or lift a suspension, the Commission must write to the applicant to inform the applicant of its decision, setting out how the conditions or suspension have changed and, if relevant, issue a new certificate of registration (*subsections (5) and (6)*).