

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

TERRITORIAL EXTENT

Miscellaneous

Section 39: Bodies required to be notified of certain matters

181. Under section 39 the Commission will have to notify certain people when it issues warning notices, when it receives payment of a penalty under a penalty notice or when it decides to prosecute. The Commission must also notify certain people when it issues a notice of proposal under section 26 or a notice of decision under section 28. It will also have to notify these people in relation to any urgent suspension of registration or any urgent variation of the conditions of registration. For instance, if the Commission proposes to change the conditions of an NHS Trust's registration it must notify the relevant Strategic Health Authority (as determined by regulations). In the case of a Foundation Trust it must notify Monitor. Provision is also made for notifying PCTs or local authorities in accordance with regulations. For example, regulations may require PCTs or local authorities who are commissioning services from the person in question to be notified.
182. *Subsection (1)(d)* also provides the Commission with the discretion to determine other people it should notify in particular circumstances. Where the Commission has taken enforcement action against a specific person, for example, it would be expected to notify the relevant professional body. In the case of a registered manager who is also a registered social care worker, this would be the General Social Care Council.

Sections 40 to 42: Miscellaneous

183. *Section 40* enables regulations to be made requiring persons who are registered to carry on regulated activities to make returns to the Commission. The regulations may also specify the frequency of the returns, their content, the period that the returns relate to, and the date by which returns must be made.
184. *Section 41* provides for regulations to be made which deal with the process that applies when companies or individuals that are registered as service providers go into liquidation or receivership, or are declared bankrupt. The regulations may require the Commission to be notified and a suitably qualified manager to be appointed to manage the regulated activities.
185. Regulations under section 42 may require the Commission to be notified if a person who is registered as a service provider dies. They may also enable someone else to continue to carry on, for a limited period, the regulated activities which the deceased person was carrying on, and for the sections of the Act to apply in a modified way to allow for this.