

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

TERRITORIAL EXTENT

Powers of entry etc.

Sections 62 to 65: Powers of entry etc.

240. In carrying out its functions, the Commission will engage with patients and service users and people involved in the provision of care and will also need to inspect relevant premises. Section 62 enables individuals authorised by the Commission to enter and inspect premises which are, or are believed to be, 'regulated premises'. Regulated premises are:

- premises used for carrying on a regulated activity;
- premises owned or controlled by an English NHS body or English local authority;
- premises used, or proposed for use, for the provision of NHS care or adult social services;
- premises used, or proposed for use, by any English NHS body in order to carry out its functions.

Premises in which NHS care or an adult social service is provided but which are used wholly or mainly as a private dwelling are excluded. So the fact that someone receives a service like domiciliary care does not mean that there is a right of entry (without consent) into that person's home under this section. 'Premises' includes vehicles. Individuals exercising these powers must produce appropriate documentation showing they have the authority to enter and inspect the premises.

241. [Section 63](#) provides further details on the power to enter and inspect premises. It enables individuals authorised by the Commission to:

- examine the premises or the treatment of persons receiving care there;
- inspect and copy records or documents, and require any person holding or accountable for them to produce them;
- have access to, and check the operation of, any computer and associated equipment that has been used in connection with any documents or records and, where records are stored on a computer, require them to be produced in a legible, non-encrypted format;
- inspect any other item;
- seize and remove any documents, records or other items;
- interview the manager or registered service provider, or people who are managing the provision of NHS care or adult social services at the premises;

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

- interview people working at the premises or people receiving care who consent to be interviewed - this does not limit the Commission's ability to interview, with their consent, other people such as family members or carers if it thinks this would be appropriate.
242. Subject to a number of conditions set out in *subsection (3)* the authorised person (as long as they are a medical practitioner or registered nurse) may examine any person receiving care at the premises.
243. *Subsection (6)* provides that an authorised person may require such assistance from any person, and may take such measurements and photographs, and make such recordings, as that person considers necessary for the exercise of the powers under sections 62 and 63.
244. [Section 64](#) gives the Commission a general power to require information, documents, records and other items from bodies and persons listed in *subsection (2)* if the Commission considers them necessary in order to carry out its regulatory functions.
245. Under section 65, regulations may require a prescribed person to provide the Commission with an explanation of: any documents, records or other items inspected, copied or provided under sections 62 to 64; any information provided under those sections; any other documents etc. provided to the Commission in order for the Commission to carry out its regulatory functions; or any other information or documents related to the Commission's regulatory functions. *Subsection (3)* enables the regulations to require individuals to be present at a time and place specified by the Commission to give an explanation. This will enable the Commission to discuss any matters of concern that its reviews and inspections have brought to light with those responsible.
246. [Sections 63\(7\)](#), [64\(4\)](#) and [65\(4\)](#) make it an offence for a person to obstruct the exercise of any of the powers under section 62 or 63 or to fail to comply with any requirement imposed under section 63, 64 or 65. The penalty on summary conviction is a fine, not exceeding level 4 on the standard scale (currently £2,500).