

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 2 – Competition

Schedule 9 – Requirements under section 75: undertakings

735. This Schedule provides further detail about the process for entering into section 77 undertakings. Monitor must consult people it considers appropriate on its procedure for entering into section 77 undertakings and must publish this. Monitor must also publish any section 77 undertakings that it accepts, removing any commercial information that would harm business interests and information relating to a person's private affairs which might affect that person's personal interests. An undertaking can be varied by mutual agreement.
736. Monitor may determine that an undertaking has been complied with and issue a certificate of compliance accordingly. The person that has given the undertaking can also apply for a certificate of compliance, in such a form and manner as prescribed by Monitor, at any time, and Monitor must respond to such an application within 14 days.
737. Monitor may refuse to issue a certificate of compliance. A person whose application has been refused can complain to the First-tier Tribunal on the grounds that the decision is based on an error of fact, that it is wrong in law or that it is unfair or unreasonable. The First-tier Tribunal can confirm Monitor's decision or can direct that it does not have effect.
738. Where Monitor thinks that false or misleading information has been supplied, it can treat that as a failure to comply with the undertaking. If it treats it as a failure to comply, it must revoke any compliance certificate given to the person in question.