

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 3 – Licensing

Licensing requirement

Section 84 - Exemption regulations: supplementary

754. This section provides a mechanism for the Secretary of State to revoke or withdraw licensing exemptions. *Subsection (1)* provides that the exemption regulations themselves could be revoked in relation to an exemption granted to an individual provider, or amended in relation to regulations granting individual exemptions to more than one provider to enable any of the exemptions to be withdrawn. The Secretary of State can revoke or withdraw an exemption at the request of the provider, in accordance with the relevant exemption regulations themselves (for example if they provided for a conditional exemption), or if the Secretary of State considers it inappropriate for the exemption to continue.
755. *Subsection (2)* provides that exemption regulations granting an exemption to a group of providers could be revoked. Exemption regulations granting exemptions to more than one group of providers could also be amended to withdraw any of the exemptions. An exemption could be revoked or withdrawn either in accordance with the relevant exemption regulations themselves, or if the Secretary of State considers it inappropriate for the exemption to continue.
756. Under *subsection (3)*, the Secretary of State may by direction, withdraw an exemption for a particular provider within a group, whilst the exemption remained in place for the rest of that group. This may be done in accordance with the relevant exemption regulations, if the Secretary of State considered it inappropriate for the exemption to continue, or at the request of an individual provider.
757. When the exemption revocation or withdrawal is not at an individual provider's request, the Secretary of State must consult Monitor, the NHS Commissioning Board, the Care Quality Commission and Healthwatch England about the proposed withdrawal. If the exemption applies to an individual provider or providers within a group or type of providers that would remain exempt, the Secretary of State must also give notice to the provider(s) from whom he proposes to remove the exemption. If the exemption applied to a group or type of provider the notice of the proposal to remove the exemption must be published. The notice must state the Secretary of State's proposal and reasons for it, and specify a minimum 28-day period during which representations can be made.