

2014 No. 1714 (C. 73)

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

PUBLIC HEALTH, ENGLAND

SOCIAL CARE, ENGLAND

The Care Act 2014 (Commencement No.1) Order 2014

Made - - - -

2nd July 2014

The Secretary of State makes this Order in exercise of the powers conferred by section 127(1) and (5) of the Care Act 2014(a).

Citation and interpretation

- 1.—(1) This Order may be cited as the Care Act 2014 (Commencement No.1) Order 2014.
(2) In this Order, “the Act” means the Care Act 2014.

Provisions coming into force on 7th July 2014

2. 7th July 2014 is the day appointed for the coming into force of the following provisions of the Act so far as is necessary for enabling the exercise of any power to make regulations that is conferred by those provisions or an amendment made by them—

- (a) section 81 (duty of candour);
- (b) section 91(2) (reviews and performance assessments), and section 91(1) insofar as it relates to that subsection.

Provisions coming into force on 15th July 2014

3.—(1) 15th July 2014 is the day appointed for the coming into force of section 81 (duty of candour) of the Act insofar as it is not already in force.

(2) 15th July 2014 is the day appointed for the coming into force of the following provisions of the Act—

- (a) section 84 (trust special administration: appointment of administrator);
- (b) section 85 (trust special administration: objective, consultation and reports);
- (c) section 120 (powers of administrator etc.);

- (d) section 122(2) and (3) (the Health and Social Care Information Centre: restrictions on dissemination of information), and section 122(1) insofar as it relates to those subsections.

(3) 15th July 2014 is the day appointed for the coming into force of the following provisions of the Act so far as is necessary for enabling the exercise of any power to make regulations that is conferred by those provisions—

- (a) section 92(1) and (3) to (6) (false and misleading information: offence);
- (b) paragraph 9 of Schedule 7 (Health Research Authority: committees and sub-committees), and section 109(2) (Health Research Authority) insofar as it relates to that paragraph.

Provisions coming into force on 1st October 2014

4. 1st October 2014 is the day appointed for the coming into force of section 91 (reviews and performance assessments) of the Act insofar as it is not already in force.

Signed by authority of the Secretary of State for Health.

2nd July 2014

Norman Lamb
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Care Act 2014 (c.23) (“the Act”). It is the first such Order to be made under the Act.

Article 2(a) brings into force, on 7th July 2014, for the purpose of enabling regulations to be made, section 81 of the Act which inserts a new subsection (5A) in section 20 (regulation of regulated activities) of the Health and Social Care Act 2008 (c.14) (“the 2008 Act”), to provide that regulations made under that section must include a duty of candour on persons who carry out regulated activities for the purposes of Part 1 of the 2008 Act.

Article 2(b) brings into force, on 7th July 2014, for the purpose of enabling regulations to be made, section 91(2) of the Act which substitutes section 46 of the 2008 Act to provide that regulations may (among other things) prescribe the particular regulated activities and registered service providers in relation to whom the Care Quality Commission must conduct and publish reviews and performance assessments. Section 91(1) of the Act is also brought into force insofar as it relates to section 91(2).

Article 3(1) brings into force, on 15th July 2014, section 81 of the Act for remaining purposes.

Article 3(2)(a) to (c) brings into force, on 15th July 2014, sections 84, 85 and 120 of the Act. Those sections amend provisions in Chapter 5A (trust special administrators: NHS trusts and NHS foundation trusts) of Part 2 of the National Health Service Act 2006 (c.41) (“the 2006 Act”). Section 84 makes provision to enable the regulatory body for NHS foundation trusts, Monitor, to authorise the appointment of a trust special administrator where it, or the Care Quality Commission, is satisfied that there is a serious failure by an NHS foundation trust to provide services of sufficient quality. Section 85 brings within coverage of the trust special administration regime the quality and safety of health care services. Section 120 further amends provisions relating to the functions of trust special administrators: it widens the scope of action which may be recommended by a foundation trust administrator; amends requirements for commissioner support for an administrator’s report; extends the statutory timetable for production of, and consultation on, the administrator’s draft report; amends consultation requirements in respect of both foundation trusts and NHS trusts under administration; amends consultation obligations on the NHS Commissioning Board, clinical commissioning groups and NHS trusts and foundation trusts in respect of the period of trust special administration; and amends the obligations on the Secretary of State to issue guidance to NHS trusts’ administrators. It also makes consequential amendments

to Schedule 14 to the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). By virtue of section 179(6) of that Act, Schedule 14 introduces amendments to the 2006 Act but has not itself been brought into force.

Article 3(2)(d) brings into force, on 15th July 2014, section 122(2) and (3) of the Act, and section 122(1) insofar as it relates to those subsections. Section 122 amends provisions in Chapter 2 of Part 9 of the 2012 Act. Subsection (2) of section 122 adds a duty to respect and promote the privacy of certain persons to the general duties of the Health and Social Care Information Centre (“HSCIC”). Subsection (3) of that section makes further provision about the power of HSCIC, under section 261(1) of the 2012 Act, to generally disseminate certain information.

Article 3(3)(a) brings into force, on 15th July 2014, for the purpose of enabling regulations to be made, section 92(1) and (3) to (6) of the Act which makes it an offence for providers of health services and adult social care to supply, publish or otherwise make available information of a specified description that is false or misleading.

Article 3(3)(b) brings into force, on 15th July 2014, for the purpose of enabling regulations to be made, paragraph 9 of Schedule 7 to the Act. The Health Research Authority (to be established as a non-departmental public body under section 109 of the Act) will be required by paragraph 8(1) of Schedule 7 to the Act to appoint a committee for the purpose of giving advice to the Authority, the Secretary of State and the HSCIC on their exercise of certain functions in relation to patient information. Paragraph 9 of Schedule 7 to the Act provides for regulations to require that committee to have regard to specified factors or matters when giving such advice. Section 109(2) of the Act is also brought into force insofar as it relates to paragraph 9 of Schedule 7 to the Act.

Article 4 brings into force, on 1st October 2014, section 91 of the Act for remaining purposes.

A full impact assessment has not been produced for this instrument as this Order itself has no impact on the private sector or civil society organisations. Impact Assessments carried out in relation to the Act are available from the Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS and at <https://www.gov.uk/government/publications/the-government-published-a-series-of-impact-assessments-alongside-the-care-bill>.

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