



Isle of Man

Ellan Vannin

AT 10 of 2013

REGULATION OF CARE ACT 2013



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**Isle of Man***Ellan Vannin*

REGULATION OF CARE ACT 2013

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AN ACT to regulate care services and social care workers; to repeal certain Acts and provisions of certain Acts concerned with those matters; to amend the *Children and Young Persons Act 2001* to provide for a Departmental fostering service; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

PART 1 — OPENING PROVISIONS

DIVISION 1 — INTRODUCTORY

1 Short title

The short title of this Act is the Regulation of Care Act 2013.

2 Commencement

The following commence on the day or days the Department of Health and Social Care (“**DHSC**”) by order appoints —

- (a) section 52 (offence to carry on or manage without registration);¹
- (b) Part 5 (social care workers); and²
- (c) section 184 (existing unregistered social care workers).³

3 Purposes of Act

The purposes of this Act are to do the following for social care and non-NHS health care services —

- (a) protect people who need them;

- (b) regulate how they are provided;
- (c) standardise how they are regulated; and
- (d) promote transparency.

4 Achieving the purposes

The purposes of this Act are achieved mainly by –

- (a) giving DHSC regulatory and monitoring functions;⁴
- (b) empowering DHSC to make minimum standards for those who provide social care or non-NHS health care services;⁵
- (c) requiring those (other than Departments) who carry on or manage care services to be registered (subject to some exemptions under Part 3, Division 2, Subdivision 2);
- (d) disqualifying certain types of person from registration and prohibiting them from being involved with, or employed or engaged at, care services;
- (e) subjecting care service carried on by a Department to the same inspection requirements and standards as those that apply to independent care services;
- (f) providing for the appointment of inspectors to help DHSC perform its functions; and⁶
- (g) requiring those who perform certain types of social care work to be registered as provided under Part 5.

DIVISION 2 – BASIC DEFINITIONS

SUBDIVISION 1 – SOCIAL CARE, CARE SERVICES AND THEIR CATEGORIES

5 “Social care”

- (1) “**Social care**” is the provision by a Department, or by a body corporate or individual as part of a business, of care to persons because of one or more of the following –
 - (a) their young age;
 - (b) abuse, neglect or risk of harm;
 - (c) past or present illness;
 - (d) past or present dependency on alcohol or a drug; or
 - (e) mental disorder, physical disability or infirmity.
- (2) “**Social care**” also includes childminding.
- (3) In this section, “care” means personal care, practical assistance or personal support.

6 “Care service” and “category” of care service

- (1) Each of the following is a “care service” —
 - (a) an agency that section 7 provides is a care service (an “agency care service”);
 - (b) an establishment that section 8 provides is a care service; and
 - (c) childminding.
- (2) Each of the agencies and establishments and childminding is a “category” of care service.
- (3) Regulations may provide for subcategories for a category of care service.

7 Agencies that are a care service

- (1) Each of the following (a “designated agency”) is a care service —
 - (a) an adult placement agency;
 - (b) a child care agency;
 - (c) a domiciliary care agency;
 - (d) a fostering agency;
 - (e) an independent medical agency;
 - (f) a nurses agency;
 - (g) a voluntary adoption agency; and
 - (h) an agency of another prescribed type.
- (2) Subsections (3) and (4) apply if a designated agency is carried on at 2 or more separate branches or other places (whatever called).
- (3) Each of the places is a separate care service.
- (4) However, if one of the places is a private dwelling —
 - (a) the dwelling, by itself, is not a separate care service;
 - (b) if there is only one other place, the dwelling and the other place together form only one care service; and
 - (c) if there are 2 or more other places, each of the other places and the dwelling together form one care service each.

8 Establishments that are a care service

Each of the following is a care service —

- (a) an adult care home;
- (b) an adult day care centre;
- (c) a child day care centre;
- (d) a children’s home;⁷
- (e) a child (secure accommodation) establishment; and

- (f) an independent clinic;
- (g) an independent hospital;
- (h) an offender accommodation service;
- (i) a residential family centre; and
- (j) an establishment of another prescribed type.

9 “Department care service”

A “**Department care service**” is a care service carried on by DHSC under the *Children and Young Persons Act 2001* (“**CYPA 2001**”), the *Social Services Act 2011* or another Act or a care service carried on by another Department.⁸

10 “Independent care service”

- (1) An “**independent care service**” is a care service other than one carried on by a Department.
- (2) If a care service is carried on jointly by a Department and someone else, the service is still an independent care service, but only to the extent it is carried on by the other person.

11 “Non-NHS health care service”

A “**non-NHS health care service**” is a service provided by any of the following –

- (a) an independent clinic;
- (b) an independent hospital;
- (c) an independent medical agency; or
- (d) a nurses agency.

12 “Child-related” care service

Each of the following categories of care service, and each care service falling within each of them, is “**child-related**” –

- (a) a child care agency;
- (b) a child day care centre;
- (c) a children’s home;⁹
- (d) childminding;
- (d) a child (secure accommodation) establishment;
- (e) a fostering agency;
- (f) a residential family centre; and
- (g) a voluntary adoption agency.

13 Who “carries on” a care service

- (1) A person “**carries on**” a care service if the person owns the business that provides the social care or non-NHS health care services provided at the care service.
- (2) However, if a care service is jointly carried on by a Department and someone else, only the other person carries on the service.
- (3) If, under section 61(8) (fostering limit) of CYPA 2001, a person is taken to be carrying on a children’s home under this Act, that person is taken to be carrying on the home mentioned in that subsection, as a care service.¹⁰

14 Who “manages” a care service

A person “**manages**” a care service if the person is directly or indirectly responsible for the day-to-day operation of the social care or non-NHS health care services provided at the care service.

15 Provision to put the term ‘care service’ in context in certain cases

- (1) This section applies to a reference in a provision of this Act to a care service if the provision does not identify any particular care service.
- (2) If the provision is about an application that is for, or relates to, registration, the reference is to the independent care service, or proposed independent care service, the subject of the application.
- (3) If the provision is about a particular registration, the reference is to the independent care service the subject of the registration.

SUBDIVISION 2 – BASIC DEFINITIONS FOR SOCIAL CARE AND CARE SERVICES**16 “Adult care home”**

- (1) An establishment is an “**adult care home**” if, for adults, it provides accommodation and either or both of the following because of one or more relevant criteria under subsection (2) —
 - (a) nursing; or
 - (b) personal care or personal support, with or without practical assistance.
- (2) The relevant criteria are —
 - (a) abuse, neglect or risk of harm;
 - (b) past or present illness;
 - (c) past or present dependency on alcohol or a drug; or
 - (d) mental disorder, physical disability or infirmity.
- (3) Despite subsection (1), none of the following is an adult care home —

- (a) a hospital;
- (b) an independent clinic; or
- (c) an establishment prescribed not to be an adult care home.

17 “Adult day care centre”

- (1) An “**adult day care centre**” is an establishment that complies with the following criteria —
- (a) it is not a private dwelling;
 - (b) one or more of the following (“relevant services”) are provided at the establishment, for the benefit of adults —
 - (i) personal care or personal support, with or without practical assistance;
 - (ii) rehabilitation;
 - (iii) respite; or
 - (iv) therapeutic activities;
 - (c) relevant services are so provided because of one or more of the matters mentioned in section 16(2);
 - (d) relevant services so provided are available at the establishment for more than 4 hours a day; and
 - (e) all or some of the relevant services so provided are provided during daytime.
- (2) To avoid any doubt, for subsection (1)(e), relevant services are still provided during daytime even if they are not provided regularly or they only start or end during daytime.
- (3) Despite subsection (1), none of the following is an adult day care centre —
- (a) a hospital or independent clinic, to the extent the services are provided as part of medical treatment that persons are receiving there; or
 - (b) an establishment prescribed not to be an adult day care centre.

18 “Adult placement agency”

- (1) An “**adult placement agency**” is a business that provides a service that —
- (a) consists of, or includes, arranging for adults to be provided with both of the following, by placing them with a person or family —
 - (i) accommodation; and
 - (ii) personal care or personal support, with or without practical assistance; and

- (b) is provided because of the need or vulnerability of the adults.
- (2) However, a business is not an adult placement agency if the business is prescribed not to be an adult placement agency.

19 “Child care agency”

- (1) A “**child care agency**” is a business that —
 - (a) consists of, or includes, the service of supplying or introducing child-carers to others; and
 - (b) is not a nurses agency or domiciliary care agency.
- (2) However, a business is not a child care agency if the business is prescribed not to be a child care agency.
- (3) In this section, “child-carers” means people who look after children, wholly or mainly where they dwell or who take them to or from their dwellings, even if the looking after or taking is —
 - (a) not for reward; or
 - (b) only on an occasional basis.

20 “Child day care centre”

An establishment is a “**child day care centre**” if —

- (a) it provides day care for one or more children under 8 years old for more than 2 hours in the same day (“**child day care**”); and
- (b) it is not a private dwelling.

21 “Childminding” and “childminder”

- (1) Generally, “**childminding**” is the looking after of one or more children under 8 years old by a person —
 - (a) at a private dwelling;
 - (b) for reward; and
 - (c) for more than a total of 2 hours in the same day.
- (2) However, childminding does not include any of the following —
 - (a) a child being looked after by a responsible person for the child;
 - (b) a person who is employed to look after a child by a responsible person for the child; or
 - (c) a person who is so employed by 2 different employers looking after any or all of the children concerned wholly or mainly in the private dwelling of either of the person’s employers.
- (3) A “**childminder**” is someone who provides childminding.
- (4) In this section —

“relative”, of a child or children, means a person connected to the child or children by whole blood, half blood or by marriage, civil partnership or some affinity other than kinship; and

“responsible person”, for a child or children, means any of the following —

- (a) a relative of the child or children;
- (b) anyone else who, under section 2 of CYPA 2001, has parental responsibility for them;
- (c) their official foster parents under section 102 of CYPA 2001; or
- (d) anyone fostering them privately under section 57 of CYPA 2001.

22 “Children’s home”¹¹

(1) A “**children’s home**” is —

- (a) an establishment that provides social care and accommodation wholly or mainly for children; or
- (b) a place at which, under section 61(8) (fostering limit) of CYPA 2001, a person is taken to be carrying on a children’s home under this Act.^{12 13}

(2) However, other than as provided under subsection (1)(b), an establishment is not a children’s home merely because a child is cared for and accommodated there by someone who is a responsible person for the child as defined under section 21(4).¹⁴

(3) Also, none of the following is a children’s home —

- (a) a hospital;
- (b) an independent clinic;
- (c) a residential family centre;
- (d) a school, other than an accommodation-providing school; or
- (e) an establishment prescribed not to be a children’s home.^{15 16}

(4) In this section —

“accommodation-providing school” means a school at which at any time accommodation is provided for children and —

- (a) in each year that fell within the 2 years ending at that time, the school provided child accommodation for more than 295 days; or
- (b) it is intended to provide child accommodation for more than 295 days in any year;

“proprietor”, for a school, see section 59(1) of the *Education Act 2001* (the “**education Act**”);

“provide child accommodation”, for a school, means to provide accommodation for at least one child either at the school or under arrangements made by its proprietor; and

“year” means any period of twelve months.

23 “Child (secure accommodation) establishment”

A “**child (secure accommodation) establishment**” is an establishment providing accommodation for children to restrict their liberty.

24 “Domiciliary care agency”

(1) A “**domiciliary care agency**” is a business that consists of, or includes, arranging for others to be provided with personal care or personal support, with or without practical assistance —

- (a) in their private dwellings; and
- (b) because of their mental disorder, physical disability, illness or infirmity.

(2) However, a business is not a domiciliary care agency if the business is prescribed not to be a domiciliary care agency.

25 “Fostering agency”

A “**fostering agency**” is an agency that, under section 23 of CYPA 2001, provides for children to be accommodated with other persons.

26 “Independent clinic”

(1) An “**independent clinic**” is an establishment at which a prescribed type of service is provided (whether or not any other type of service is also provided at the establishment).

(2) However, a type of service as follows cannot be prescribed under subsection (1) —

- (a) one provided in an independent hospital or NHS hospital; or
- (b) one provided by medical practitioners or health care professionals under the *National Health Service Act 2001* (the “**NHS Act**”).

(3) In this section, “health care professionals” means individuals with special education or training about the direct provision of patient care or services ancillary to health care.

27 “Independent hospital”

(1) An “**independent hospital**” is an establishment —

- (a) the main purpose of which is to provide medical treatment, psychiatric treatment or palliative care for mental disorder, physical disability, illness or infirmity;
 - (b) at which persons liable to be detained under the *Mental Health Act 1998* (the “**mental health Act**”) receive treatment or nursing, or both, other than persons absent under leave granted under section 17 of that Act; or
 - (c) at which another prescribed type of service is provided.
- (2) However, an establishment is not an independent hospital if the establishment is —
- (a) an NHS hospital; or
 - (b) prescribed not to be an independent hospital.

28 “Independent medical agency”

- (1) An “**independent medical agency**” is a business that consists of, or includes, the provision of services by medical practitioners.
- (2) However, none of the following is an independent medical agency —
- (a) an independent clinic;
 - (b) an independent hospital;
 - (c) a business mentioned in subsection (1) to the extent to which its services are provided under the NHS Act by medical practitioners; or
 - (d) an establishment prescribed not to be an independent medical agency.

29 “Nurses agency”

- (1) A “**nurses agency**” is an employment agency or employment business under section 12(1) of the *Employment Agencies Act 1975* that consists of, or includes, providing or supplying nurses or registered midwives.
- (2) However, an agency or business mentioned in subsection (1) is not a nurses agency if it is prescribed not to be a nurses agency.

30 “Offender accommodation service”

- (1) An “**offender accommodation service**” is an establishment at which a service is provided that consists of the giving of advice, guidance or help to persons who have been provided accommodation —
- (a) under section 29 (approved probation hostels) of the *Criminal Justice Act 1963*; or
 - (b) following release from custody.

- (2) However, an establishment is not an offender accommodation service if it is prescribed not to be an offender accommodation service.

31 “Residential family centre”

- (1) A “**residential family centre**” is an establishment at which —
- (a) accommodation is provided for children and their parents;
 - (b) the parents’ capacity to respond to their children’s needs and to safeguard their welfare is monitored or assessed; and
 - (c) the parents are given advice, counselling or guidance.
- (2) However, an establishment is not a residential family centre if the establishment is prescribed not to be a residential family centre.
- (3) In this section, “parent” includes anyone who, under section 2 of CYPA 2001, has parental responsibility for the child.

32 “Voluntary adoption agency”

- A “**voluntary adoption agency**” is a body —
- (a) that, under the *Adoption Act 1984* (the “**adoption Act**”) is an approved adoption society; and
 - (b) whose activities are not carried on for profit.

DIVISION 3 — OTHER DEFINITIONS AND INTERPRETATION

33 Other provisions

- (1) The Schedule defines words used in this Act, other than for Part 9, Division 2 (savings and transitional).
- (2) In this Act, unless the context otherwise requires —
- (a) a reference to a function includes a power;
 - (b) a reference to performing a function includes a reference to exercising a power;
 - (c) a reference to a person performing a function is a reference to the person’s functions under this Act;
 - (d) a provision about a person’s functions does not limit the person’s other functions; and
 - (e) a reference to DHSC performing a function includes a reference to any inspector performing the function for DHSC.¹⁷
- (3) [Repealed]¹⁸
- (4) [Repealed]¹⁹

PART 2 – DHSC’S FUNCTIONS FOR ACT²⁰

34 General functions

- (1) As well as its care service functions under the Acts mentioned in section 9, DHSC has the functions of –
 - (a) regulating how independent care services are carried on;
 - (b) encouraging improvement in the quality of care services; and
 - (c) providing information to the public about care services.²¹
- (2) DHSC also has the function of monitoring (its “**monitoring function**”) –
 - (a) compliance with this Act by registered persons;
 - (b) whether social care or non-NHS health care services are being provided by anyone who is subject to the registration requirement but who is not registered; and
 - (c) Department care services.²²
- (3) DHSC also has the function of promoting high standards for social care workers and their training.²³

35 Power to make minimum standards

- (1) DHSC may make standards (the “**minimum standards**”) about the provision of social care or non-NHS health care services by independent care services.²⁴
- (2) The minimum standards are a public document but not a statutory document.
- (3) Before making the minimum standards, DHSC must consult in a way it considers appropriate about the standards.²⁵

36 Access to minimum standards

DHSC must make the minimum standards publicly available in the way it considers appropriate.²⁶

37 Effect of minimum standards

- (1) The minimum standards must be considered –
 - (a) by DHSC when it –
 - (i) performs its functions under section 34; or
 - (ii) makes decisions under Part 3 and under Part 4, Divisions 2 (notice to registered provider to improve care service) and 3 (enforcing requirements of registered persons); or²⁷
 - (b) in appeals to the tribunal under Part 6; and

- (c) in proceedings for registration-related offences and care offences.
- (2) A Department must consider the minimum standards in carrying on or managing a care service.
- (3) Subsections (1) and (2) only apply to the extent the minimum standards are relevant to the care service in question.

PART 3 – REGISTRATION OF INDEPENDENT CARE SERVICES

DIVISION 1 – GENERAL PROVISIONS

SUBDIVISION 1 – BASIC DEFINITIONS CONCERNING REGISTRATION

38 “Provider registration” and “registered provider”

- (1) “**Provider registration**” is registration under this Part as a person who carries on an independent care service.
- (2) A “**registered provider**” is someone who holds provider registration.

39 “Manager registration” and “registered manager”

- (1) “**Manager registration**” is registration under this Part as a person who manages an independent care service.
- (2) A “**registered manager**” is someone who holds manager registration.

40 “Registered person”

A “**registered person**” is someone who holds provider registration or manager registration.

41 Registration concerning children

- (1) “**Childminder registration**” is provider registration for childminding.
- (2) A “**registered childminder**” is a childminder who is a registered provider for childminding.
- (3) Registration is “**child-related**” if it is for a care service that is child-related.

42 General references to “registration”

- (1) If this Act refers to “**registration**” without referring to any particular type under this Subdivision, the reference is a reference to any provider registration or manager registration that has not been cancelled and is not suspended.

- (2) A reference to a person's registration includes a reference to the registration conditions and any details of the registration.

SUBDIVISION 2 – DISQUALIFICATION FROM REGISTRATION

43 Types of disqualification

- (1) A person is –
- (a) disqualified from any registration (“**totally disqualified**”) if a disqualifying circumstance under section 44 applies to the person;
 - (b) disqualified for any child-related registration (“**disqualified for children**”) if a disqualifying circumstance under section 45 applies to the person;
 - (c) disqualified from registration for a specific category of care service that is not child-related (“**specifically disqualified**”) if a disqualifying circumstance under section 46 applies to the person; or
 - (d) disqualified from provider registration other than childminder registration (“**disqualified because of insolvency**”) if –
 - (i) the person is, or has been, administered in insolvency; or
 - (ii) for a body corporate, a member or officer of the body is being administered in insolvency.
- (2) However, a person is not disqualified as mentioned in subsection (1) for a particular disqualification under subsection (1) if –
- (a) the person has been exempted from that disqualification under section 47 (a “**disqualification exemption**”); and
 - (b) the exemption has not been withdrawn under section 48.
- (3) In this section, “administered in insolvency”, for a person, means –
- (a) the person being the following under any British Islands legislation –
 - (i) for an individual, a bankrupt; or
 - (ii) for a body corporate, the subject of winding up or administration; or
 - (b) the person or the person's property being the subject of –
 - (i) the appointment (whether or not by a court) of a receiver, or a receiver and manager; or
 - (ii) a compromise or arrangement under any British Islands legislation with another person.

44 Total disqualification

- (1) For an individual, the disqualifying circumstances for total disqualification are any of the following, —
- (a) the individual has been convicted of, or cautioned for, a totally disqualifying offence;
 - (b) the individual is included in —
 - (i) the children’s barred list or the adults’ barred list under the *Safeguarding Vulnerable Groups Act 2006* of Parliament; or
 - (ii) a list similar to either list kept under any other British Islands legislation;
 - (c) an order under the *Sex Offenders Act 2006* or any other similar British Islands legislation has been made against the individual; or
 - (d) another prescribed circumstance applies to the individual.
- (2) For a body corporate, the disqualifying circumstance is that a member or officer of the body is totally disqualified.
- (3) In this section —
- “cautioned”, for an offence, means cautioned, reprimanded or warned under any British Islands legislation for an admission of the offence; and
- “totally disqualifying offence” means any of the following —
- (a) the ill-treatment or neglect offence;
 - (b) an offence against section 14A (ill-treatment of residents of nursing homes etc.) of the repealed *Nursing and Residential Homes Act 1988*;
 - (c) an offence against section 123 (ill-treatment of patients) of the mental health Act;
 - (d) an offence against sections 18 to 20, 23 to 27, 31, 33, 35 to 39, 41 to 47 or 49 to 60D of the *Criminal Code 1872*;
 - (e) an offence against sections 14 to 17 of the *Sexual Offences Act 1992*;
 - (f) an offence against, or an offence mentioned in, Schedules 1 to 4 to the *Criminal Justice Act 2001*;
 - (g) another offence involving injury or threat of injury to another person;
 - (h) an offence against a prescribed provision; or
 - (i) an offence committed outside the Island against any British Islands legislation that would have been an offence mentioned in paragraphs (a) to (h) had the act constituting the offence taken place on the Island.

45 Additional disqualifications for children

- (1) This section provides for the disqualifying circumstances for disqualification for children.
- (2) For an individual, the disqualifying circumstances are any of the following —
 - (a) the individual is a parent of a child who, at any time, has been the subject of a care order;
 - (b) any of the following has been made at any time for a child so as to remove the child from the individual's care or prevent the child from living with the individual —
 - (i) a care order;
 - (ii) a supervision order; or
 - (iii) an old removal order;
 - (c) the individual has been convicted of, or cautioned for, a disqualifying offence for children;
 - (d) the individual was involved with a child-related care service the registration for which has been cancelled;
 - (e) the individual has been refused any child-related registration;
 - (f) a prohibition under section 59 (restrictions on private fostering) of CYPA 2001 or a similar prohibition under another childrens law, has been imposed on the individual;
 - (g) under a childrens law —
 - (i) the individual has been disqualified or prohibited from private fostering; or
 - (ii) the individual's rights and powers for a child have been vested in someone else; or
 - (h) another prescribed circumstance applies to the individual.
- (3) It is also a disqualifying circumstance for an individual while the individual lives in —
 - (a) the same private dwelling as a person who is totally disqualified or disqualified for children; or
 - (b) any part of premises at which a person who is totally disqualified or disqualified for children is employed or engaged.

Note:

Part 7, Division 1 (disqualification offences) has defences concerning this head of disqualification. See section 148(3) (involvement with care service if disqualified) and 149(2) (employing or engaging disqualified person).

- (4) For a body corporate, the disqualifying circumstance is that a member or officer of the body is disqualified for children.
- (5) In this section —

“care order” means a care order under a childrens law or an order that, under CYPA 2001, has effect as a care order;

“child-related care service” includes a service (whatever called) carried on at any time anywhere in the British Islands outside the Island that would have been a child-related care service had it been carried on the Island;

“childrens law” means any of the following —

- (a) CYPA 2001;
- (b) the *Social Work (Scotland) Act 1968*, *Foster Children (Scotland) Act 1984*, *Children Act 1989*, *Childcare Act 2006* or the *Safeguarding Vulnerable Groups Act 2006*, all of Parliament;
- (c) the *Children (Scotland) Act 1995*;
- (d) the *Children (Northern Ireland) Order 1995*;
- (e) any other British Islands legislation that corresponds, or is similar to, legislation mentioned in paragraphs (a) to (d); or
- (f) another prescribed law;

“disqualifying offence for children” means an offence, —

- (a) against section 26(1)(b) or (c) of the adoption Act;
- (b) against section 42(13), 48(2) or 49(5) of CYPA 2001;
- (c) mentioned in Schedule 8 to CYPA 2001; or
- (d) committed outside the Island against any British Islands legislation that would have been an offence mentioned in paragraphs (a) to (c) had the act constituting the offence taken place on the Island;

“old removal order” means an order under section 30 of the repealed *Adoption Act 1953*, section 7 of the repealed *Child Life Protection Act 1959* or the repealed section 24 of the adoption Act;

“registration” includes registration (whatever called) for a child-related care service under other British Islands legislation or a repealed care law;

“repealed care law” includes a law repealed under a repealed care law; and

“supervision order” means a care order under a childrens law or an order that, under CYPA 2001, has effect as a supervision order.

46 Additional specific disqualifications

- (1) This section provides for the disqualifying circumstances for specific disqualification for a category of care service.
- (2) It is a disqualifying circumstance for an individual for the category if any of the following apply for the individual —
 - (a) the individual was involved with a care service of the category the registration for which has been cancelled;

- (b) the individual has been refused registration for the category; or
 - (c) another prescribed circumstance applies to the individual.
- (3) Also, the recipient of a disqualification notice (unregistered childminder) is disqualified from childminding until the earlier of the following to happen —
- (a) the end of a year after the notice is given; or
 - (b) the notice is earlier withdrawn.
- (4) For a body corporate, the disqualifying circumstance is that a member or officer of the body is specifically disqualified for the category.
- (5) In this section —
- “care service” includes a care service (whatever called) carried on anywhere else in the British Islands;
- “registration” includes registration (whatever called) under other British Islands legislation or a repealed care law; and
- “repealed care law” includes a law repealed under a repealed care law.

47 Exemption from disqualification

- (1) A person who is disqualified as mentioned in section 43(1) may apply (an “exemption application”) to DHSC for a disqualification exemption from that disqualification.²⁸
- (2) However, if the person has already made an exemption application that has been refused (the “earlier application”), the person cannot make an exemption application, unless —
- (a) more than a year has passed since the making of the earlier application; or
 - (b) DHSC is satisfied there has been a relevant and material change in the person’s circumstances since that time.²⁹
- (3) An exemption application must be —
- (a) in the required form, if there is one; and
 - (b) disclose all disqualifying circumstances for which the applicant would, other than for the granting of the exemption, be disqualified as mentioned in subsection (1).
- (4) DHSC must consider and decide each exemption application.³⁰
- (5) In deciding an exemption application DHSC may consider any relevant registration criteria.³¹
- (6) If DHSC decides to refuse an exemption application, it must give the applicant an appeal notice about the decision.³²

48 Withdrawal of disqualification exemption

- (1) DHSC may withdraw a disqualification exemption if it considers the withdrawal is necessary or desirable and it has complied with the procedural fairness requirements.³³
- (2) If DHSC decides to withdraw a disqualification exemption, it must give the applicant an appeal notice about the decision.³⁴

SUBDIVISION 3 – SUITABILITY FOR REGISTRATION**49 Who is a “suitable manager” or “suitable supervisor”**

- (1) A person is a “**suitable manager**” for a care service only if the person is suitable to manage it.
- (2) A person is a “**suitable supervisor**” for a care service only if the person is suitable to supervise its management.
- (3) For subsections (1) and (2), a person is taken not to be suitable for a care service if –
 - (a) the person is totally disqualified or is specifically disqualified for the care service’s category; or
 - (b) if the care service is child-related, the person is disqualified for children.

50 Criteria for suitability to manage or supervise

- (1) A person is suitable to manage, or supervise the management of, a care service only if –
 - (a) the person is physically and mentally fit enough, and has the skills and experience necessary, for the supervision or management; and
 - (b) the person has integrity and is of good character.
- (2) In considering whether a person has integrity and is of good character regard may be had to any or all of the following –
 - (a) whether the person has been previously convicted of an offence on information or of a care offence;
 - (b) any contravention by the person of an obligation under this Act or a corresponding law to this Act; or
 - (c) any other prescribed matter.
- (3) In deciding whether a person is suitable to supervise or manage a care service, regard must be had to its category and size.
- (4) In this section, “registration” includes registration (whatever called) or a licence under a corresponding law to this Act or a repealed care law.

51 Who is “suitable for childminding”

A person is “suitable for childminding” only if the person is —

- (a) not totally disqualified and not disqualified for children;
- (b) physically and mentally fit enough, and has the skills and experience necessary, for childminding; and
- (c) has integrity and is of good character, having regard to the matters mentioned in section 50(2).

DIVISION 2 — REQUIREMENT TO REGISTER INDEPENDENT CARE SERVICE

SUBDIVISION 1 — MAIN OFFENCE

52 Offence to carry on or manage without registration

- (1) A person must not —
 - (a) carry on an independent care service, unless the person is its registered provider and that registration is not suspended; or
 - (b) manage an independent care service, unless —
 - (i) generally, the person is its registered manager and that registration is not suspended; or
 - (ii) if the care service is childminding, the person is its registered provider and that registration is not suspended.

- (2) The Maximum penalty (summary) for subsection (1) is generally 4 times level 5 on the standard scale, but if the offence was committed in a circumstance of aggravation it is 6 months custody or a fine.³⁵

Note:

See also section 148 (involvement with care service if disqualified).

- (3) The prohibition under subsection (1) is the “**registration requirement**”.
- (4) The registration requirement is subject to Subdivision 2.
- (5) In this section —

“circumstance of aggravation”, for the commission of the offence, means —

- (a) the person was previously registered for the care service but that registration had ended before, or was suspended when, the offence was committed; or
- (b) the conviction is a second or subsequent conviction for an offence against the registration requirement and the earlier conviction, or one of the earlier convictions, was of an offence about —
 - (i) the care service; or
 - (ii) another independent care service of the same category;

“registered” includes registered or licensed under a repealed care law; and

“registration requirement” includes a requirement under a repealed care law to be registered or licensed.

SUBDIVISION 2 — EXEMPTIONS FROM REGISTRATION REQUIREMENT

53 Personal representatives

The registration requirement does not apply to a personal representative carrying on a care service under section 102 (carrying on care service for limited period after sole provider’s death).

54 Child day care at certain establishments

- (1) The registration requirement does not apply to a person carrying on or managing a business that provides child day care at —
 - (a) a children’s home, independent hospital or residential family centre for which there is provider registration;³⁶
 - (b) an NHS hospital; or
 - (c) a school.
- (2) In this section, “school” means an institution for providing primary education or secondary education, or both, being a school maintained by the Department of Education, Sport and Culture or an independent school.³⁷

55 Occasional child day care centres

- (1) This section applies if a person who carries on or manages a child day care centre gives DHSC a notice stating the centre will not be used for child day care for more than 5 days a year.³⁸
- (2) The registration requirement only applies to the person if the centre is used for child day care for more than 5 days in any 12 month period starting on —
 - (a) the day the centre is first used for child day care after the notice is given; or
 - (b) any anniversary of that day.

DIVISION 3 — OBTAINING REGISTRATION

SUBDIVISION 1 — APPLICATIONS

56 Who can apply for registration

- (1) Generally —

- (a) anyone may apply for provider registration for a care service or proposed care service (a “**registration application**”); and
 - (b) any individual can apply for manager registration for a care service or proposed care service (also a “**registration application**”).
- (2) The exceptions to subsection (1) are —
- (a) a person who is totally disqualified cannot apply for any registration;
 - (b) a person who is disqualified for children cannot apply for any child-related registration;
 - (c) a person who is specifically disqualified for a category of care service cannot apply for registration for any care service of that category;
 - (d) a person who is disqualified because of insolvency cannot apply for provider registration other than childminder registration;
 - (e) 2 or more people who carry on, or propose to carry on, a care service in partnership may apply for provider registration for the service only if all of the individual partners of the partnership jointly make the application;
 - (f) if a person wishes to apply for registration for more than one care service, the person may do so only by making separate registration applications for each of them;
 - (g) a person cannot make a registration application for a fostering agency or voluntary adoption agency carried on by an unincorporated body; and
 - (h) only an individual can apply to become a registered childminder.
- (3) An individual may apply for both provider registration and manager registration for the same care service.
- (4) An applicant for childminder registration need only apply for provider registration.

57 How to apply

- (1) A registration application must —
- (a) be made to DHSC in the required form, if there is one;³⁹
 - (b) state the category and prescribed subcategory of registration sought;
 - (c) identify the care service and where it is, or is proposed to be, provided;
 - (d) give the prescribed information about, and be accompanied by the prescribed documents relating to, the prescribed matters; and
 - (e) be accompanied by the prescribed fee, if there is one.

- (2) If the application is for provider registration and the applicant is a body corporate —
 - (a) the body corporate must identify an individual (“the nominee”) whom it proposes as the care service’s responsible person; and
 - (b) the application must include, or be accompanied by, the prescribed documents or information about the nominee.
- (3) The nominee —
 - (a) must be an officer of the applicant; and
 - (b) cannot be a person who is any of the following —
 - (i) totally disqualified or disqualified because of insolvency;
 - (ii) if the application is for provider registration for a child-related care service, disqualified for children; or
 - (iii) specifically disqualified for the care service’s category.

SUBDIVISION 2 — DECIDING APPLICATION AND TAKING EFFECT OF REGISTRATION

58 Registration criteria

- (1) This section provides for the “**registration criteria**”.
- (2) If an individual applies for provider registration, the applicant must be a suitable supervisor for the care service, unless —
 - (a) the applicant already holds manager registration for the care service; or
 - (b) DHSC has decided to grant the applicant manager registration for the care service.⁴⁰
- (3) If a body corporate applies for provider registration, its nominee must be a suitable supervisor for the care service.
- (4) An applicant for manager registration must be a suitable manager for the care service.
- (5) The applicant must be able to comply with the mandatory conditions and comply with any other prescribed criteria.
- (6) Everyone looking after children under 8 years old at the care service must be suitable for childminding.
- (7) Anyone living, or likely to be employed or engaged, at the care service —
 - (a) must not be totally disqualified; and
 - (b) if the application is for registration for a child-related care service, must be suitable to be in regular contact with children under 8 years old.

- (8) A person is suitable for subsection (7)(b) only if the person is not disqualified for children and has integrity and is of good character.
- (9) The premises consisting of the care service, and equipment at it, must be suitable for the service, having regard to their condition, construction, situation and size.

59 Deciding application

- (1) DHSC must consider and decide each registration application.⁴¹
- (2) However —
 - (a) the obligation under subsection (1) to decide is subject to DHSC's powers under Division 7, Subdivision 1 (common provisions for applications); and⁴²
 - (b) before making the decision DHSC must comply with the requirements under Division 7, Subdivision 2 (the “**procedural fairness requirements**”).⁴³
- (3) DHSC may grant a registration application only if satisfied —
 - (a) the registration criteria have been complied with;
 - (b) to the extent the registration criteria concern whether a person is a suitable supervisor, suitable manager or suitable for childminding, the person will continue to be so suitable; and
 - (c) the applicant will continue to comply with the other registration criteria to the extent they are relevant.⁴⁴

60 Power to impose registration conditions

- (1) If DHSC decides to grant a registration application, it may, in addition to the mandatory conditions, impose registration conditions it considers appropriate.⁴⁵
- (2) Registration conditions decided under subsection (1) are “**decided conditions**”.
- (3) Before imposing decided conditions DHSC must comply with the procedural fairness requirements.⁴⁶
- (4) However, subsection (3) does not apply for agreed conditions.

61 Notice of decision

- (1) If DHSC decides to grant a registration application, it must give notice of the decision to —
 - (a) the applicant; and
 - (b) if the application is only for manager registration, the care service's registered provider.⁴⁷

- (2) The notice must state any decided conditions for the applicant's registration.
- (3) DHSC must give the applicant an appeal notice about a decision —
 - (a) to impose decided conditions, other than agreed conditions; or
 - (b) to refuse a registration application.⁴⁸

62 When registration takes effect

- (1) A decision to grant a registration application takes effect —
 - (a) if there are no decided conditions other than agreed conditions, when the applicant is given notice of the decision to grant the relevant registration application; or
 - (b) if there are decided conditions that are not agreed conditions, on the earliest of the following to happen —
 - (i) the applicant gives DHSC a notice agreeing to all of the decided conditions;⁴⁹
 - (ii) the period under the appeal rules to appeal (the “appeal period”) for the decision ends and the applicant has not filed an appeal; or
 - (iii) if the applicant has filed an appeal within the appeal period, when the appeal ends.
- (2) When the decision takes effect, any nominee becomes the care service's “**responsible person**”.

63 Registering successful applicant and any responsible person

When a decision to grant a registration application takes effect, DHSC must —

- (a) record in the register details of the applicant's registration and, if the applicant is a body corporate, the care service's responsible person; and
- (b) give the applicant a registration certificate.⁵⁰

64 Duration of registration

Registration continues until it is surrendered, suspended or cancelled under this Part, or, if the sole registered person is an individual, the person dies.

DIVISION 4 — MANDATORY CONDITIONS FOR REGISTRATION

65 Imposition of mandatory conditions

As well as any decided conditions, a person's registration is subject to both of the following types of conditions (the “**mandatory conditions**”) to the extent they are relevant to that registration —

- (a) the conditions under this Division; and
- (b) any other prescribed conditions.

66 Supervision and management duties: general

- (1) This section does not apply for childminding.
- (2) A registered provider must —
 - (a) ensure the care service has a registered manager who continues to manage it; and
 - (b) if the registered provider is a body corporate —
 - (i) ensure the person recorded on the register as the care service’s responsible person continues to supervise its management (the “supervision condition”); and
 - (ii) if the responsible person dies or otherwise ceases to so supervise, make an amendment application under Division 5 as soon as practicable to replace the person with someone else (a “**responsible person change**”).
- (3) While a person continues to be a registered manager, the person must, unless DHSC otherwise agrees, continue to manage the care service (the “management condition”).⁵¹
- (4) To avoid any doubt, a contravention of the supervision condition or management condition does not affect a leave entitlement of the responsible person or registered manager or a right or remedy that person has against the registered provider or anyone else.

67 Supervision and management duties: exception

- (1) The supervision condition and the management condition under section 66 do not apply during any period of leave to which the responsible person or registered manager (the “controller”) is entitled if —
 - (a) the total leave the controller has taken in the last 12 months is no more than the maximum leave prescribed for the controller to take in any 12 month period; and
 - (b) the registered provider has made appropriate arrangements to ensure the care service is suitably supervised and managed in the controller’s absence.
- (2) To avoid any doubt, maximum leave may be prescribed even if it is less than a leave entitlement of the controller under the *Employment Act 2006*, any other relevant Act or a contract of employment.
- (3) Nothing in subsection (2) limits the scope of subsection (1).

68 Suitability and training conditions

- (1) A registered provider that is a body corporate must ensure the care service's responsible person —
 - (a) continues to be a suitable supervisor for the care service; and
 - (b) has appropriate training to continue to have the skills to supervise its management.
- (2) If a registered provider is an individual and someone else is the care service's registered manager, the registered provider must continue to be a suitable supervisor for the care service.
- (3) However, subsection (2) does not apply for childminding.
- (4) A registered manager must —
 - (a) continue to be a suitable manager for the care service;
 - (b) continue to have appropriate training to have the skills to continue to manage the care service; and
 - (c) ensure the competency, qualifications and training of the care service's workforce are appropriate.
- (5) A registered childminder must continue to be suitable for childminding.

69 Duty of care, competence and skill

- (1) A registered provider that is a body corporate must ensure the care service's responsible person supervises its management with sufficient care, competence and skill.
- (2) A registered manager must manage the care service with sufficient care, competence and skill.
- (3) A registered childminder must carry out childminding with sufficient care, competence and skill.

70 Continuing suitability of premises and its equipment

The premises consisting of a registered care service, and equipment at it, must continue to be suitable for the service, having regard to their condition, construction, situation and size.

71 Annual fees and costs under cost recovery notices

- (1) A registered person must pay DHSC the prescribed annual fee at the prescribed times or intervals.⁵²
- (2) The recipient of a cost recovery notice must pay DHSC the amount required to be paid under the notice within 14 days after the giving of the notice.⁵³

72 Inspections and related matters

- (1) A registered person must allow an inspector to enter and inspect the premises at which the care service is provided if the inspector —
 - (a) is entitled to enter the premises under section 115 (inspection of care premises under inspection guidelines) or 116 (care premises: other entries); and
 - (b) has complied with section 117 (social care and non-NHS health care premises: procedure for entry).
- (2) A registered provider must ensure sections 125 (offence: obstruction of inspector) and 128 (offence: contravention of production requirement) are not contravened in relation to the care service.
- (3) Subsection (2) applies whether or not anyone is charged or convicted in relation to any claimed contravention of section 125 or 128.

73 Compliance with improvement notices

The recipient of an improvement notice must not contravene the notice.

Note:

See also section 105 (contravening registration condition) and Part 4, Divisions 2 (notice to registered provider to improve care service) and 3 (enforcing requirements of registered persons).

DIVISION 5 – CHANGING REGISTRATION ON THE REGISTERED PERSON’S INITIATIVE

SUBDIVISION 1 – AMENDMENTS

74 When registered person may apply to amend

- (1) A registered person may apply to do any of the following (an “**amendment application**”) —
 - (a) amend any decided condition of the person’s registration;
 - (b) for a registered provider, make a responsible person change;
 - (c) amend the registration to reflect a change to the person’s name; or
 - (d) if the care service is an agency care service or childminding, the address of the premises at which the care service is carried on.
- (2) However, if there is a current cancellation notice for the person, the person cannot make an amendment application.
- (3) To avoid any doubt —
 - (a) a registered person cannot apply to substitute someone else as the registered person or amend a mandatory condition; and

- (b) a registered provider for an establishment care service cannot apply to amend the address of the premises at which the care service is carried on.
- (4) In this section, “establishment care service” means a care service under section 8.

75 How to apply

- (1) An amendment application must —
 - (a) be made to DHSC in the required form, if there is one;⁵⁴
 - (b) state the amendment sought;
 - (c) give the prescribed information about prescribed matters; and
 - (d) be accompanied by the prescribed fee, if there is one.
- (2) Also, if the application is for a responsible person change, it must —
 - (a) nominate an officer of the applicant (the “**nominated replacement**”) to replace the current responsible person; and
 - (b) include, or be accompanied by, the prescribed documents or information about the prescribed matters for the nominated replacement.

76 Deciding application

- (1) DHSC must consider and decide each amendment application.⁵⁵
- (2) However —
 - (a) the obligation under subsection (1) to decide is subject to DHSC’s powers under Division 7, Subdivision 1 (common provisions for applications); and⁵⁶
 - (b) before making the decision DHSC must comply with the procedural fairness requirements.⁵⁷
- (3) DHSC may grant an amendment application only if satisfied —
 - (a) the applicant will continue to comply with the registration criteria, to the extent the criteria apply to the type of registration under Division 1, Subdivision 1 that the applicant seeks; and
 - (b) for a responsible person change, that the nominated replacement is, and will continue to be, a suitable supervisor for the care service.⁵⁸

77 Notice and taking effect of decision

- (1) If DHSC decides to grant all or part of an amendment application it must —
 - (a) give the applicant —

- (i) notice of the decision (the “amendment notice”); and
 - (ii) a new registration certificate that reflects the amendment; and
- (b) if the applicant only holds manager registration for the care service, give its registered provider a copy of the amendment notice.⁵⁹
- (2) The amendment takes effect when the applicant is given the amendment notice.
 - (3) Any nominated replacement becomes the care service’s responsible person when the amendment takes effect.
 - (4) If DHSC decides to refuse all or part of an amendment application, it must give the applicant an appeal notice about the decision.⁶⁰
 - (5) If the decision is a partial refusal, the appeal notice may accompany, or be included in, the amendment notice.

SUBDIVISION 2 – SURRENDERS BY REGISTERED MANAGERS OR CHILDMINDERS

78 **Surrender by notice**

- (1) A registered manager or registered childminder may, by notice to DHSC (a “surrender notice”), surrender the person’s registration.⁶¹
- (2) However, the manager or childminder cannot give a surrender notice if there is a current cancellation notice for the person.
- (3) A surrender notice takes effect when it is given.

SUBDIVISION 3 – SURRENDERS BY REGISTERED PROVIDERS OTHER THAN CHILDMINDERS

79 **Application of Subdivision**

This Subdivision applies to a registered provider other than a registered childminder.

80 **Surrender only by application**

The registered provider may surrender the provider’s registration only –

- (a) by making an application to DHSC for approval of the surrender (a “**surrender application**”); and⁶²
- (b) if the approval is given and it has taken effect.

81 Restriction on making surrender application

The recipient of a current cancellation notice cannot make a surrender application for the registration the subject of the notice.

82 How to apply

A surrender application must —

- (a) be made to DHSC in the required form, if there is one;⁶³
- (b) give the prescribed information about prescribed matters about the application or the registered provider; and
- (c) be accompanied by the prescribed fee, if there is one.

83 Deciding application

- (1) DHSC must consider and decide each surrender application.⁶⁴
- (2) In deciding a surrender application DHSC may consider whether or not it thinks appropriate arrangements need to be made for persons receiving social care or non-NHS health care services provided at the care service.⁶⁵

84 Notice and taking effect of decision

- (1) If DHSC decides to grant a surrender application it must give the applicant notice of the decision.⁶⁶
- (2) The surrender takes effect when the applicant is given the notice.
- (3) If DHSC decides to refuse a surrender application, it must give the applicant an appeal notice about the decision.⁶⁷

DIVISION 6 — AMENDMENTS, SUSPENSIONS OR CANCELLATION BY DHSC⁶⁸**85 Minor corrections**

DHSC may decide to amend a particular registration for a person to correct a clerical or formal error if —

- (a) the amendment does not adversely affect the interests of the person or anyone else; and
- (b) the person has been given notice of the amendment.⁶⁹

86 Amendments: general

DHSC may decide to amend a particular registration for a person if DHSC, —

- (a) considers the amendment is necessary or desirable; and

- (b) has complied with the procedural fairness requirements or the person has agreed in writing to the amendment.⁷⁰

87 Suspensions: general

- (1) DHSC may decide to suspend a particular registration for a person if —
 - (a) the care service is being, or has been, carried on in contravention of a relevant requirement; and
 - (b) DHSC has complied with the procedural fairness requirements.⁷¹
⁷²
- (2) A suspension under subsection (1) may be extended or further extended.
- (3) In this section, “relevant requirement” means —
 - (a) a registration condition;
 - (b) a requirement under this Act relating the registration; or
 - (c) a requirement under another Act that DHSC considers is relevant to the registration.⁷³

88 Cancellation: general

- (1) DHSC may decide to cancel a particular registration for a person if it —
 - (a) considers the cancellation is necessary or desirable because of any ground mentioned in subsection (2); and
 - (b) has complied with the procedural fairness requirements.⁷⁴
- (2) The grounds are any of the following —
 - (a) the registration was obtained because of a materially false or misleading representation, made either orally or in writing;
 - (b) any ground on which DHSC would be entitled to refuse a registration application for the care service;⁷⁵
 - (c) the person has not complied with section 71 (annual fees and costs under cost recovery notices);
 - (d) the person is the recipient of a compliance notice for the care service and the notice has been contravened;
 - (e) the person is totally disqualified;
 - (f) for provider registration other than childminder registration, the person is disqualified because of insolvency;
 - (g) if the care service is child-related, the person is disqualified for children;
 - (h) the person specifically disqualified for the care service’s category;
 - (i) if the care service has a responsible person, that person has been convicted of a care offence or is disqualified as mentioned in paragraphs (e) to (h);

- (j) the person has been convicted of a care offence relating to the care service;
 - (k) the care service is being, or has been, carried on in contravention of a relevant requirement as defined under section 87(3);
 - (l) DHSC is of the opinion that the care service has not been carried on for a continuous period of 3 years or more; or⁷⁶
 - (m) any other prescribed ground.
- (3) Subsection (2)(d) applies whether or not a proceeding has been started for the noncompliance the subject of the compliance notice.

89 Urgent amendment, suspension or cancellation

- (1) DHSC or an inspector (the “action-taker”) may do any of the following (the “action”) if the action-taker reasonably believes someone will, or may be, exposed to the risk mentioned in subsection (2) unless the action is taken immediately —
- (a) amend the decided conditions of a particular registration for a person, either permanently or for a stated period (an “**urgent amendment**”);
 - (b) suspend a particular registration for a person for a stated period (an “**urgent suspension**”); or
 - (c) cancel a particular registration for a person (an “**urgent cancellation**”).⁷⁷
- (2) The risk is —
- (a) for urgent amendment or suspension, a risk of harm; or
 - (b) for urgent cancellation, a serious risk to life, health or wellbeing.
- (3) The action takes effect when the action-taker gives the registered person notice of the action, either orally or in writing.
- (4) The procedural fairness requirements do not apply for taking the action or giving the notice.
- (5) The following apply if the notice is given orally —
- (a) for provider registration, the action-taker may give the notice to the registered provider by giving it orally to the care service’s responsible person; and
 - (b) the action-taker must also give it again in writing as soon as practicable after giving it orally.
- (6) Subsections (7) and (8) apply for a written notice of the action, given under subsection (3) or (5)(b).
- (7) The notice must —
- (a) state —

- (i) the action taken;
 - (ii) the reasons for the action-taker's belief; and
 - (iii) for an urgent suspension, the suspension period; and
- (b) include, or be accompanied by, an appeal notice about the decisions to take the action and, for an urgent suspension, to fix the suspension period.
- (8) If the registered person is a registered manager, the action-taker must give the care service's registered provider a copy of the notice.

90 Effect of suspension or cancellation

- (1) If a registration is suspended under this Division, it is ineffective while it is suspended.
- (2) If a registration is cancelled under this Division, it ends and ceases to have any further effect.
- (3) Subsections (1) and (2) are subject to section 146(2) (tribunal's powers on appeal).

91 Notice and taking effect of non-urgent decisions under Division

- (1) This section applies for a decision under this Division to do any the following about a particular registration for a person (the "action") –
- (a) an amendment, other than a minor correction under section 85 or an urgent amendment;
 - (b) a suspension, other than an urgent suspension; or
 - (c) a cancellation, other than an urgent cancellation.
- (2) DHSC must give notice of the decision (a "decision notice") to –
- (a) the person; and
 - (b) if the person only holds manager registration for the care service, any registered provider for the service.⁷⁸
- (3) The decision notice must include, or be accompanied by, an appeal notice about the decision to take the action.
- (4) The action takes effect on the later of the following –
- (a) the day the person is given the decision notice; or
 - (b) any day of effect stated in the decision notice.
- (5) However, suspension or cancellation because of the commission of a care offence –
- (a) does not take effect until –
 - (i) the period to appeal against the conviction ends; and

- (ii) if the appeal is made against the conviction, the appeal is finally ended; and
- (b) has no effect if the conviction is quashed on appeal.

92 Recovery of DHSC's expenses in certain cases⁷⁹

- (1) This section applies if —
 - (a) DHSC has, under this Division, amended, suspended or cancelled (the “action”) a person’s registration and the action has taken effect; and⁸⁰
 - (b) it considers the action was taken because of the person’s noncompliance with this Act, a requirement under this Act for obtaining registration or a registration condition.
- (2) DHSC may decide to give the person a notice (a “**cost recovery notice**”) requiring the person to pay DHSC its stated reasonable expenses in performing its monitoring or other functions relating to the noncompliance and taking the action.⁸¹
- (3) However, DHSC may make the decision only if it has complied with the procedural fairness requirements.⁸²
- (4) The cost recovery notice must state the amount of the costs and include, or be accompanied by, an appeal notice about the decisions to give the notice and to fix the amount of the costs required to be paid.
- (5) If the person does not comply with a cost recovery notice, DHSC may recover from the person the amount required to be paid under the notice summarily as a debt.⁸³
- (6) Subsection (5) applies even if the person has been given a compliance notice for the debt or the person’s registration has ended.
- (7) In this section, “expenses” includes expenses for services DHSC provides for itself and the remuneration of an inspector or an employee of the Public Services Commission.⁸⁴

DIVISION 7 — OTHER PROVISIONS FOR APPLICATIONS OR CHANGING REGISTRATION

SUBDIVISION 1 — POWER TO REQUIRE ADDITIONAL INFORMATION ABOUT APPLICATIONS⁸⁵

93 Noncompliant applications

- (1) DHSC must refuse to receive or do anything to decide a purported registration application or amendment application not made under the requirements under this Part for making the application.⁸⁶

- (2) However, DHSC may receive and decide the application as if it did comply with the requirements if DHSC is satisfied the application substantially complies with the requirements.⁸⁷
- (3) For subsection (1), if a required form requires any or all of the following, it is completed only if that requirement is (or are) complied with —
- (a) that the form is to be signed;
 - (b) that the form to be prepared in a particular way;
- Examples:*
- On paper of a particular size or quality or in a particular electronic form.*
- (c) that the form to be completed in a particular way;
 - (d) that particular information to be included in the form, or a particular document to be attached to or given with it; or
 - (e) that the form, information in the form, or a document attached to or given with it, is to be verified in a particular way.
- Example:*
- By a statutory declaration.*
- (4) However, subsection (3) only requires substantial, and not strict, compliance with the requirements.
- (5) In this section, “requirements”, under this Part, includes requirements under any required form about how it is to be properly completed.

94 Request to applicant about application

If DHSC is deciding a registration application or amendment application, it may, by notice, require the applicant to do any or all of the following within a stated reasonable period —

- (a) complete or correct the application if it appears to DHSC to be incorrect, incomplete or defective;⁸⁸
- (b) give DHSC additional information about, or relevant to, the application; or⁸⁹
- (c) give DHSC a statutory declaration verifying information included in the application or additional information required under paragraph (b).^{90 91}

95 Refusing application for contravention of request notice

DHSC may refuse an application if —

- (a) a notice under section 94 has been given for the application;
- (b) the period stated in the notice for complying with it has ended; and
- (c) the request has not been complied with to DHSC’s satisfaction.^{92 93}

SUBDIVISION 2 — PROCEDURAL FAIRNESS REQUIREMENTS

96 Application of Subdivision

This Subdivision applies if, under this Part, DHSC must comply with this Subdivision before finally deciding to do any of the following (“**DHSC’s proposal**”) —

- (a) refusing an application for a disqualification exemption;
- (b) withdrawing a disqualification exemption;
- (c) imposing registration conditions;
- (d) amending a person’s registration, other than by urgent amendment;
- (e) suspending a registered person’s registration, other than by urgent suspension;
- (f) cancelling a registered person’s registration, other than by an urgent cancellation; or
- (g) giving a cost recovery notice.⁹⁴

97 Notice of proposal

- (1) DHSC must give the following (an “**interested person**”) a notice about DHSC’s proposal (the “**proposal notice**”) —
 - (a) either —
 - (i) if the proposal is deciding registration conditions, the person who applied for the registration (the “**applicant**”); or
 - (ii) if the proposal concerns a registered person, that person; and
 - (b) if someone else is a registered person for the care service, the other person.⁹⁵
- (2) The proposal notice must state —
 - (a) the proposal;
 - (b) the reasons for the proposal; and
 - (c) that an interested person may, within 21 days after the proposal notice is given, (the “**submission period**”) make written submissions to DHSC about the proposal.⁹⁶
- (3) DHSC cannot make the decision until the earlier of the following to happen —
 - (a) the submission period ends; or
 - (b) all interested persons have given DHSC —
 - (i) written submissions about the proposal; or

- (ii) a notice stating the person will not be giving any submissions.^{97 98}

98 Duty to consider any written submissions

In making the decision, DHSC must consider any written submissions given to it within the submission period under section 97(2)(c).⁹⁹

99 Withdrawal notice

If DHSC decides not to proceed with DHSC's proposal, it must give each interested person a notice stating DHSC has withdrawn the proposal.¹⁰⁰

DIVISION 8 – DEATH OF REGISTERED PROVIDER

100 Application of Division

This Division applies if a registered provider (other than a registered childminder) for a care service is an individual and the individual dies.

101 Notification duties

- (1) As soon as practicable after the death, the following person must give DHSC a notice of the death, unless the person has a reasonable excuse –
 - (a) the care service's surviving registered providers; or
 - (b) if the deceased was the care service's sole registered provider – the deceased's personal representative.

Maximum penalty (summary) – £ 2,500.¹⁰¹

- (2) Also, the personal representative must, within 28 days after the death, give DHSC a notice stating the personal representative's intentions for the future carrying on of the care service, unless the person has a reasonable excuse.

Maximum penalty (summary) – £ 2,500.¹⁰²

102 Carrying on care service for limited period after sole provider's death

- (1) This section applies only if the personal representative is not any of the following –
 - (a) totally disqualified;
 - (b) if the care service is child-related, disqualified for children;
 - (c) specifically disqualified for the care service's category; or
 - (d) disqualified because of insolvency.

- (2) If the deceased was the care service's sole registered provider, the deceased's personal representative may carry on the service without holding provider registration for —
 - (a) generally, 4 weeks from the deceased's death; or
 - (b) if DHSC agrees in writing to a longer period (either before or after 4 weeks end), the longer period.¹⁰³
- (3) The longer period cannot be more than a year.
- (4) Subsections (5) and (6) apply while the personal representative carries on the care service under subsection (2).
- (5) The representative must comply with the registration conditions that applied to the deceased immediately before the death.
Maximum penalty (summary) — £5,000.
- (6) This Act applies to the representative, with necessary changes, as if the deceased had not died and as if the representative was the care service's registered provider.

DIVISION 9 — GENERAL REGISTRATION-RELATED OFFENCES

103 Making false statement in an application

A person must not, in a registration application or amendment application, knowingly make a statement that is materially false or misleading.

Maximum penalty (summary) — £5,000.

104 Failure to display registration certificate

- (1) A registered person must ensure the person's registration certificate is kept affixed in a conspicuous place at any place where the care service is carried on.

Maximum penalty (summary) —

- (a) for a first conviction, £500; or
 - (b) for a second or subsequent conviction, £10 for each day after the first conviction.
- (2) However, unless the registration is childminder registration, subsection (1) does not apply to any part of the place that only consists of a private dwelling.

105 Contravening registration condition

A registered person must not, without a reasonable excuse, contravene a registration condition.

Maximum penalty (summary) — 4 times level 5 on the standard scale.¹⁰⁴

106 Falsely describing scope of registration conditions

- (1) A person must not, without a reasonable excuse, describe or hold out that an independent care service can provide a particular type of social care or non-NHS health care service if doing so would contravene a registration condition relating to the service.

Maximum penalty (summary) – £5,000.

- (2) To avoid any doubt, subsection (1) applies even if the person is not a registered person for the care service.

DIVISION 10 – THE REGISTER**107 Requirement to keep register**

- (1) DHSC must keep a register of details about registered persons and responsible persons for care services.¹⁰⁵
- (2) The details must include the prescribed information and may include any other information DHSC considers appropriate.¹⁰⁶
- (3) DHSC may keep the register in any form it considers appropriate, including in electronic form.¹⁰⁷
- (4) If, under this Part, there is a change to information kept in the register, DHSC must amend the information to reflect the change.¹⁰⁸

108 Access to register

- (1) DHSC must –
 - (a) keep the register open at its offices for inspection by the public during office hours on working days; and
 - (b) on payment of any fee decided by DHSC –
 - (i) allow anyone to search or take an extract from the register; or
 - (ii) give anyone who asks for it a copy of all or part of the register.^{109 110}
- (2) The fee for a copy must be a reasonable, but no more than the actual, cost of providing the copy.
- (3) Subsection (1) does not apply to any part of the register the disclosure of which DHSC considers would be detrimental to an individual's welfare (other than of a registered person or a responsible person for a care service).¹¹¹
- (4) An exclusion under subsection (3) may be for persons generally or for a particular person seeking access to the part excluded.

DIVISION 11 – MISCELLANEOUS

109 Service of registered person at care service

- (1) This section applies if this Act permits or requires DHSC to give a registered person a notice or other document.¹¹²
- (2) For Part 4, Division 5 of the *Interpretation Act 2015* (service of documents), the person’s usual or last known place of abode or business is taken to be the address of the care service.¹¹³
- (3) Subsection (2) applies despite any actual change of the person’s address and even though DHSC or any of its officers is aware, or might by enquiry become aware, of the change.¹¹⁴

110 DHSC’s notification powers¹¹⁵

- (1) This section applies if any circumstance as follows arises —
 - (a) a decision to cancel or suspend a registration;
 - (b) a proceeding for a care offence or adoption society offence;
 - (c) a matter relating to social care or a non-NHS health care service that, in DHSC’s opinion, may be relevant to a statutory authority, relevant care recipient or a representative of a relevant care recipient (an “interested entity”); or¹¹⁶
 - (d) another prescribed circumstance.
- (2) DHSC may give any interested entity a notice it considers appropriate to inform the recipient of the circumstance.¹¹⁷
- (3) For the giving of the notice, a statutory authority is taken to be a public authority under the *Electronic Transactions Act 2000*.
- (4) The subject information provisions and non-disclosure provisions under the *Data Protection Act 2002*¹¹⁸ do not apply to the giving of the notice.
- (5) In this section —

“relevant care recipient” means anyone receiving social care or a non-NHS health care service related to the circumstance;

“representative”, of a relevant care recipient, means —

- (a) a person who, under section 8(5) (rights upon assessment) of the *Social Services Act 2011*, is a representative of the care recipient, as an assessed person; and
- (b) anyone else appointed in writing by the care recipient —
 - (i) as the care recipient’s representative for this section; or
 - (ii) to be informed of matters relating to social care or non-NHS health care services provided to the care recipient; and

“statutory authority” means any of the following —

- (a) a Department;
- (b) a Statutory Board; or
- (c) an authority under a corresponding law to this Act performing functions similar to DHSC’s functions under this Act, CYPA 2001 or the *Social Services Act 2011*.¹¹⁹

PART 4 — MONITORING AND ENFORCEMENT

DIVISION 1 — MONITORING

SUBDIVISION 1 — INSPECTORS

111 Appointment and functions

- (1) DHSC may, by notice, appoint appropriately qualified persons to —
 - (a) help DHSC perform its monitoring function; or¹²⁰
 - (b) perform functions given to them under CYPA 2001, the education Act or another Act.¹²¹
- (2) In considering whether a person is appropriately qualified, regard must be had to any designated registration requirements.
- (3) A person who holds appointment under subsection (1) is an “**inspector**”.
- (4) In this section, “designated registration requirements” means requirements under any law as follows that requires registration under it for a person to perform functions (whatever called) that are the same as, or similar to, the monitoring function —
 - (a) regulations under this Act; or
 - (b) any Parliamentary enactment to the extent it applies to England.

112 Issue of identity card

- (1) DHSC must give each inspector an identity card.¹²²
- (2) The identity card must —
 - (a) contain a recent photograph of the inspector;
 - (b) contain the signature of the individual who authorised the issue of the card;
 - (c) identify the person as an inspector for this Act;
 - (d) state an expiry date for the card.

113 Production or display of identity card

In exercising a power under this Division in relation to another person in that person's presence, an inspector must –

- (a) produce the inspector's identity card for the person's inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person while exercising the power.

SUBDIVISION 2 – INSPECTORS' ENTRY POWERS

114 General entry powers

An inspector may enter –

- (a) premises if its occupier consents to the entry or the entry is authorised under a warrant; and
- (b) land around a building or other structure to an extent that is reasonable to contact the occupier of the building or structure.

115 Inspection of care premises under inspection guidelines

- (1) DHSC may make guidelines for inspectors to inspect any premises as follows (“**care premises**”) –
 - (a) premises at which there is a care service to which registration relates;
 - (b) premises at which social care or a non-NHS health care service is provided by anyone subject to the registration requirement; or
 - (c) premises at which a Department care service is carried on.¹²³
- (2) The guidelines may, but need not, provide for grounds on which an inspection is to take place and for the way in which it is to be conducted.
- (3) The guidelines do not take effect until they have been laid for information before Tynwald.
- (4) The guidelines are a public document but not a statutory document.
- (5) DHSC must make the guidelines publicly available by –
 - (a) publishing them on the Government's website or another appropriate website; or
 - (b) giving each registered provider a copy.¹²⁴
- (6) Subject to section 117, an inspector may enter care premises to carry out an inspection for the premises under the guidelines.
- (7) However, subsection (6) does not apply if –
 - (a) the care service is childminding;

- (b) the premises is a private dwelling occupied by someone other than a childminder; and
 - (c) the occupier refuses consent to the entry.
- (8) Also, if the care service is one other than childminding, subsection (6) applies to a part of the premises that is a private dwelling only if the inspector reasonably suspects the part is used to provide social care or a non-NHS health care service.
- (9) In this section, “inspect” includes enter.

116 Care premises: other entries

- (1) This section applies to care premises and premises an inspector reasonably suspects are care premises.
- (2) Subject to section 117, an inspector may, at any reasonable time, enter the premises to inspect it if the inspector reasonably suspects the entry is necessary or expedient for the performance of DHSC’s monitoring function.¹²⁵
- (3) However, subsection (2) does not apply if, under section 115(7) or (8), an inspector cannot enter premises or a part of premises, as the case may be.

117 Care premises: procedure for entry without consent or warrant

- (1) Before entering premises under section 115 or 116, an inspector must make a reasonable attempt to —
- (a) identify the inspector to any occupier of the premises who is present, in the way stated in section 113; and
 - (b) tell the occupier that the inspector may enter the premises without consent or a warrant.
- (2) However, for an entry under section 116, subsection (1) does not apply if the inspector reasonably believes immediate entry is needed to ensure the purpose of the entry is not frustrated.

SUBDIVISION 3 — POWERS AFTER ENTRY

118 Application of Subdivision

This Subdivision applies if, under Subdivision 2 or a warrant, an inspector has entered particular premises.

119 Who has a “role” for the premises entered

A person has a “role” for the premises if any of the following apply for the person —

- (a) the person owns a business (a “care service owner”) that provides social care or a non-NHS health care service at or from the premises;
- (b) the person is the registered provider for a care service at the premises;
- (c) the person is the registered manager for an independent care service at the premises, or, if the care service has no registered manager, apparently managing it (a “manager”);
- (d) the person is a responsible person for a care service at the premises, or, if the care service has no responsible person, apparently supervising its management (a “supervisor”); or
- (e) the registration requirement applies to the premises and the person is authorised, employed or engaged by a care service or a manager or supervisor to perform work of any type at the premises.

120 General powers on entry

The inspector may do any or all of the following —

- (a) bring onto the premises the equipment and materials and a medical practitioner or nurse or anyone else the inspector reasonably requires to help the inspector perform the inspector’s functions;
- (b) examine or search any part of the premises;
- (c) inspect, measure, test, photograph or film any part of the premises or anything at it;
- (d) inspect or copy a document at the premises —
 - (i) required to be kept under this Act; or
 - (ii) relating to anyone receiving social care or a non-NHS health care service, or who is being accommodated, at the premises (a “**service recipient**”); or
- (e) consider, for section 121, whether or not a service recipient at the premises appears to be receiving proper care.

121 When service recipients can be medically examined

- (1) A service recipient at the premises may be medically examined only if —
 - (a) the inspector reasonably believes the person is not receiving proper care; and
 - (b) subsections (2) to (4) have been complied with.
- (2) A medical practitioner or nurse helping the inspector must assess whether or not the service recipient has capacity to consent to the examination (“capacity”).

- (3) If the assessment is that the service recipient has capacity, the examination may proceed only if the recipient has consented to the examination.
- (4) If the assessment is that the service recipient does not have capacity, the examination may proceed only if, after complying with either of the following, the medical practitioner or nurse has formed the opinion that the examination is in the recipient's best interests —
 - (a) guidelines made by DHSC about forming the opinion; or¹²⁶
 - (b) any requirements under an Act about forming the opinion.
- (5) The guidelines are a public document but not a statutory document.

122 Power to require documents or information on entry

- (1) The inspector may require (a “**production requirement**”) a person present who has a role for the premises to give the inspector any or all of the following that the person has, or has access to —
 - (a) a document mentioned in section 120(d); or
 - (b) information about the provision of social care or non-NHS health care services at the premises.
- (2) Before making the production requirement, the inspector must give the person an offence warning.

123 Offence: contravention of requirement to give reasonable help

- (1) The inspector may require a person who has a role for the premises to give the inspector reasonable help to perform the inspector's functions.
- (2) Before making the requirement, the inspector must give the person an offence warning.
- (3) A person of whom a requirement under subsection (1) has been made must not contravene the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (3) (summary) — £2,500.

SUBDIVISION 4 — OTHER PROVISIONS

124 Warrants

- (1) An inspector may apply to the High Bailiff for a warrant authorising any constable to help the inspector, and anyone else helping the inspector (a “helper”), to enter premises or exercise other powers under this Division.
- (2) The application must be sworn and state —
 - (a) the power sought to be exercised;

- (b) the premises for which the warrant is sought;
 - (c) if the power relates to a service recipient or person who has a role for the premises, the recipient or person; and
 - (d) the grounds on which the warrant is sought.
- (3) The High Bailiff may issue the warrant only if satisfied the inspector or a helper has been, or is likely to be, prevented from exercising the powers.
- (4) The warrant must state the matters mentioned in subsection (2)(a) and (b) and (c), if it applies.
- (5) Subject to subsections (6) to (9), the warrant authorises any constable to do any or all of the following, using necessary and reasonable force –
- (a) enter the premises with the inspector and any helper;
 - (b) seize a document or another thing (the “seized thing”) the inspector reasonably believes is, or may be, evidence of an offence against this Act, subject to subsections (6) to (9); or
 - (c) take any other action reasonably necessary to allow the powers to be exercised.
- (6) A thing cannot be seized under the warrant if it is a medical record or is needed for the day-to-day carrying on of a care service provided at the premises.
- (7) The inspector must give a receipt for the seized thing to the person from whom it was seized.
- (8) The receipt must generally describe the seized thing and its condition.
- (9) If the seized thing is, in the inspector’s reasonable belief, not needed, or no longer needed, as evidence the inspector must take reasonable steps to return it to its owner.

125 Offence: obstruction of inspector

- (1) A person must not intentionally obstruct an inspector from exercising a power under this Division.
- Maximum penalty (summary) – £5,000.
- (2) If the inspector considers a person is obstructing the inspector and the inspector decides to proceed with the exercise of the power, the inspector must give the person an offence warning.
- (3) In this section, “obstruct” includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

126 Inspector may require production of information

- (1) This section applies if an inspector reasonably believes DHSC needs information to perform its monitoring function in relation to a particular registered person.¹²⁷
- (2) The inspector may require (also a “**production requirement**”) the registered person to give the following person within a stated reasonable period stated information the inspector reasonably believes is necessary to perform the monitoring function –
 - (a) to the extent the information consists of medical records, a stated medical practitioner or nurse; or
 - (b) otherwise, DHSC.¹²⁸
- (3) The production requirement must include an offence warning.
- (4) In this section, “information” includes documents.

127 [Repealed]¹²⁹**128 Offence: contravention of production requirement**

A person of whom a production requirement has been made must not contravene the requirement, unless the person has a reasonable excuse.

Maximum penalty (summary) – £2,500.

129 Compliance with production requirement

- (1) It is not a defence to, or an excuse for, a proceeding for an offence against section 128 that complying with the production requirement contravened might tend to incriminate the defendant.
- (2) However, if the defendant is an individual, incriminating evidence is not admissible in evidence against the defendant in a civil or criminal proceeding, other than for the ill-treatment or neglect offence.
- (3) Subsection (2) does not apply to a proceeding for an offence for which the falsity or misleading nature of the document the subject of the requirement is relevant.
- (4) In this section, “incriminating evidence” means evidence directly or indirectly derived from a document produced or information it contains that might tend to incriminate the defendant.

130 Reports about inspections

- (1) If an inspector has, under this Division, inspected care premises, DHSC must –
 - (a) prepare a report about the inspection;

- (b) give each registered person for the care service a copy within one month; and
 - (c) after giving the report, make the report available for public inspection in the way DHSC considers appropriate.^{130 131}
- (2) However, DHSC need not comply with subsection (1)(c) for any part of the report the disclosure of which it considers would be detrimental to an individual's welfare.¹³²

131 Protection from defamation for reports

- (1) For the law of defamation, absolute privilege attaches to the preparation, giving or making available of a report under section 130, unless the report is sworn to have been made with malice.
- (2) However, subsection (1) does not apply to an opinion in the report found not to have been based on appropriate evidence.
- (3) Subsection (1) does not affect any privilege available other than under that subsection.

DIVISION 2 – NOTICE TO REGISTERED PROVIDER TO IMPROVE CARE SERVICE

132 Power to give improvement notice

- (1) This section applies if an inspector reasonably believes an improvement needs to be made to a care service.
- (2) The inspector may give the care service's registered provider a notice (an "**improvement notice**") requiring the provider to make the improvement within a stated reasonable period.
- (3) The inspector must give a copy of the improvement notice to –
 - (a) if the registered provider is a body corporate, the care service's responsible person; and
 - (b) if someone other than the registered provider is the registered manager for the care service, the registered manager.

133 Requirements for improvement notice

- (1) An improvement notice must state all of the following –
 - (a) the registered provider's name;
 - (b) the care service;
 - (c) the improvement required to be made to the care service;
 - (d) the reason for requiring the improvement;
 - (e) the period (the "required period") within which the improvement must be made; and

- (f) an explanation that, under section 73, compliance with the notice is a condition of the registered provider's registration.
- (2) An improvement notice may, but need not, state the steps the inspector recommends to make the improvement.
- (3) An improvement notice must include, or be accompanied by, an appeal notice about the decisions to take the action and to fix the required period.

134 Compliance with improvement notice

- (1) Subsections (2) and (3) apply if an improvement notice states the steps the inspector giving it recommends ("recommended steps") to make the improvement required under the notice.
- (2) The registered provider is taken to have complied with the notice if all of the recommended steps are taken within the period stated in the notice for making the improvement.
- (3) Subsection (2) does not prevent the registered provider from making the improvement in another way with any inspector's agreement.
- (4) If there are no recommended steps, the registered provider must decide all steps necessary to make the improvement and take those steps.

DIVISION 3 – ENFORCING REQUIREMENTS OF REGISTERED PERSONS

135 Power to give notice requiring compliance

- (1) This section applies if an inspector reasonably believes a registered person has committed, is committing or may commit an offence against this Act or adoption society offence.
- (2) The inspector may give the person a notice (a "**compliance notice**") requiring the person to, within a stated reasonable period, take stated steps the inspector considers are necessary to remedy the commission of the offence or to prevent it from happening or happening again.

136 Requirements for compliance notice

- (1) A compliance notice must state all of the following —
 - (a) the registered person's name;
 - (b) the care service;
 - (c) that the inspector giving it believes the person has committed, is committing, or may commit a stated offence against this Act or an adoption society offence;
 - (d) the act or omission constituting, or that may constitute, the offence;

- (e) the steps the person must take to remedy the commission of the offence or prevent it from happening or happening again;
 - (f) the period (the “required period”) within which the steps must be taken; and
 - (g) an explanation that, under section 137, it is an offence to contravene the notice.
- (2) A compliance notice must include, or be accompanied by, an appeal notice about the decisions to take the action and to fix the required period.

137 Offence: contravention of compliance notice

The recipient of a compliance notice must not contravene the notice.

Maximum penalty (summary) – 4 times level 5 on the standard scale.¹³³

DIVISION 4 – DISQUALIFYING UNREGISTERED CHILDMINDERS

138 Notice disqualifying for a year

- (1) This section applies if an inspector reasonably believes a childminder who is not registered has contravened the registration requirement.
- (2) The inspector may give the person a notice (a “**disqualification notice (unregistered childminder)**”) stating –
 - (a) the contravention;
 - (b) that the person must immediately cease to carry out childminding;
 - (c) that, under section 46(3) (additional specific disqualifications), the person is disqualified from childminding until the earlier of the following to happen –
 - (i) the end a year after the notice is given; or
 - (ii) the notice is earlier withdrawn;
 - (d) that, under section 56(2)(c) (who can apply for registration), the recipient cannot apply for childminder registration while the disqualification is in force; and
 - (e) that if the person carries on childminding after the year ends, the person will still be committing an offence against the registration requirement, unless the person becomes a registered childminder before doing so.
- (3) A disqualification notice (unregistered childminder) must include, or be accompanied by, an appeal notice about the decision to give the disqualification notice.

PART 5 – SOCIAL CARE WORKERS

DIVISION 1 – DEFINITIONS

139 What is “social care work” and who is a “social care worker”

- (1) “**Social care work**” is any of the following –
 - (a) performing social work;
 - (b) managing a care service;
 - (c) one person providing another person (a “recipient”) with relevant services under, or for the purposes of, either of the following because of the recipient’s mental disorder, physical disability, illness or infirmity –
 - (i) a contract of employment by a business carrying on a care service; or
 - (ii) an arrangement, contract, engagement or understanding between an agency care service and a recipient for the agency to supply relevant services to the recipient;
 - (d) participating in a prescribed course or a course for persons wishing to become social workers approved for that purpose under a UK care Act; or
 - (e) performing other work or services of a prescribed type.
- (2) A “**social care worker**” is a person who performs or participates in performing social care work.
- (3) In this section, “relevant services” means personal care or personal support, with or without practical assistance.

140 What is “social work” and who is a “social worker”

- (1) “**Social work**” is social work performed for a business that provides a social work service for education, health or social care, including one provided by a Department.
- (2) A “**social worker**” is a person who performs social work.

DIVISION 2 – OFFENCES

141 Offence: falsely using title ‘social worker’

- (1) A person other than a registered social worker must not, with intent to deceive, use the title ‘social worker’.
Maximum penalty (summary) – £5,000.
- (2) In this section –

“registered social worker” means a person registered under a UK care Act or regulations under section 161(2)(a) to perform work of any type (however described) that is social work; and

“use the title ‘social worker’” includes a person using a title or description under which the person implies or holds out that the person is a registered social worker.

142 Offences concerning social care worker registration

- (1) This section applies if —
- (a) a provision of a law as follows (the “relevant law”) provide for persons performing a particular type work (whatever described) which work is a type of social care work (“designated work”) to be registered (the “relevant registration”)
 - (i) of any or all of the UK care Acts; or
 - (ii) regulations under section 161(2)(a); and
 - (b) more than 3 months have passed since the provision first commenced.

Note:

See the deferral of this section under section 184 (existing unregistered social care workers).

- (2) However, this section does not apply for a medical practitioner or nurse.
- (3) A person must not knowingly employ or engage, or continue to employ or engage, a person (the “worker”) to perform work (whatever called) that is designated work, unless the worker holds the relevant registration.

Maximum penalty (summary) — £5,000.

- (4) However, in a proceeding for an offence of continuing to employ or engage the worker in contravention of subsection (3), it is a defence for the defendant to prove —
- (a) the worker held the relevant registration when the defendant originally employed or engaged the worker; and
 - (b) the defendant did not know, and could not have reasonably believed, that the worker had ceased to hold the relevant registration.

- (5) A person must not carry on a business involving the performance of designated work (whatever called) by the person, unless the person holds the relevant registration.

Maximum penalty (summary) — £5,000.

PART 6 — APPEALS

143 Establishment and jurisdiction of tribunal

- (1) The Care Services Tribunal is established.
- (2) The tribunal has the jurisdiction given to it under this Act or another Act.

144 Who comprises the tribunal

The tribunal consists of —

- (a) a chairperson appointed under the *Tribunals Act 2006* (the “**tribunals Act**”); and
- (b) 2 members selected as provided under section 9(b) of the tribunals Act from a panel appointed under that Act.

145 Right of appeal against decisions under Act

The recipient of, or a person who is entitled under this Act to be given, an appeal notice about a decision may, under the appeal rules, appeal to the tribunal against the decision.

146 Tribunal’s powers on appeal

- (1) An appeal is to be —
 - (a) by way of rehearing anew; and
 - (b) decided under the appeal rules.
- (2) Unless the tribunal otherwise orders, an appeal does not operate to stay the effect of the original decision pending the deciding of the appeal.
- (3) In deciding an appeal, the tribunal must —
 - (a) confirm the decision appealed against (the “original decision”);
 - (b) set aside the original decision and substitute another decision; or
 - (c) set aside the original decision and return the issue to the person who made the original decision with directions the tribunal considers appropriate.
- (4) If the tribunal substitutes another decision, the substituted decision is for this Act (other than section 145) taken to be and to have always been the original decision.

147 Further High Court appeal on question of law

A further appeal from a decision of the tribunal lies to the Staff of Government Division, under the rules of court, on a question of law.

PART 7 – GENERAL OFFENCES AND HUMAN RIGHTS ACT REMEDY

DIVISION 1 – DISQUALIFICATION OFFENCES

148 Involvement with care service if disqualified

- (1) A person who is totally disqualified must not be involved with any care service.
- (2) A person who is disqualified for children must not be involved with a child-related care service.
- (3) However, if the disqualification for children was because of section 45(3), it is a defence for the defendant to prove the defendant did not know, and could not have reasonably believed the disqualifying circumstance mentioned in section 45(3) applied to the defendant.
- (4) A person who is specifically disqualified for a category of care service must not be involved with a care service of that category.
- (5) A person who is disqualified because of insolvency must not carry on, or have a financial interest in, a business that carries on a care service other than childminding.
- (6) However, subsection (5) does not apply if the financial interest is only the holding of a listed share or security.
- (7) For subsections (1), (2), (4) and (5), the maximum penalties are –
 - (a) (on information) – 2 years' custody or a fine; or
 - (b) (summary) – 6 months custody or 4 times level 5 on the standard scale.¹³⁴

149 Employing or engaging disqualified person

- (1) A person who carries on or manages a care service must not employ or engage someone else at the service if –
 - (a) the other person is totally disqualified or is specifically disqualified for the care service's category; or
 - (b) if the care service is child-related, the other person is disqualified for children

Maximum penalty (on information) – 2 years' custody or a fine.

Maximum penalty (summary) – 6 months custody or 4 times level 5 on the standard scale.¹³⁵

- (2) However, it is a defence for the defendant to prove the defendant did not know, and could not have reasonably believed, the other person was so disqualified.

150 Registration requirement not relevant to Division 1 offences

This Division applies to a person whether or not the registration requirement applies to the defendant or, for section 149, the person employed or engaged.

DIVISION 2 – OTHER OFFENCES

151 False descriptions about registration or Department care services

- (1) A person must not, with intent to deceive, do anything mentioned in subsection (2) or (3) (a “prohibited action”).

Maximum penalty (summary) – £5,000.

- (2) It is a prohibited action to apply a name to a business or describe, or hold out, a business so as to show any of the following things about the business if the thing is incorrect –

- (a) it is registered; or
- (b) it is a Department care service.

- (3) It is a prohibited action to apply a name to premises or describe, or hold out, premises so as to show any of the following things about the premises if the thing is incorrect –

- (a) there is a registered provider or registered manager for a care service on the premises; or
- (b) a care service on the premises is a Department care service.

- (4) In this section –

“show”, for a matter mentioned in this section, includes doing anything that could be reasonably understood to show that matter; and

“business” means a business in, or being carried on in, the Island, and, for a body corporate, includes –

- (a) the name for which it is registered under incorporation legislation; and
- (b) any business name for which it is registered under the *Registration of Business Names Act 1918*.

152 Ill-treatment or neglect offence

- (1) A social care provider must not ill-treat or wilfully neglect a care recipient.

Maximum penalty (on information) – 2 years’ custody or a fine.

Maximum penalty (summary) – 6 months custody or 4 times level 5 on the standard scale.¹³⁶

- (2) The offence under subsection (1) is the “**ill-treatment or neglect offence**”.

(3) In this section —

“care recipient” means a person who is receiving social care or non-NHS health services; and

“social care provider” means any of the following —

- (a) anyone who provides social care or non-NHS health services;
- (b) a registered provider or registered manager;
- (c) anyone else subject to the registration requirement;
- (d) a responsible person for a care service;
- (e) anyone supervising the management of an independent care service for a registered provider who is not its responsible person; or
- (f) a manager, officer or employee of, or a person engaged by, a person mentioned in paragraphs (b) to (e).

153 [Repealed]¹³⁷

DIVISION 3 — HUMAN RIGHTS ACT REMEDY

154 Human Rights Act 2001: certain persons perform a public function

- (1) This section applies to anyone who carries on an independent care service other than childminding.
- (2) For section 6(3)(b) (acts of public authorities) of the *Human Rights Act 2001*, the registered provider is taken to be exercising a function of a public nature in carrying on the care service.

PART 8 — PROCEEDINGS

DIVISION 1 — PROSECUTIONS

155 Attorney General’s consent required for certain prosecutions

- (1) A proceeding for a registration-related offence or care offence may be commenced only by, or with the consent of, the Attorney General.
- (2) A document signed by, or purporting to be signed by or for, the Attorney General consenting to the proceeding being commenced is evidence of that fact.

156 [Repealed]¹³⁸**157 Time limit for summary proceedings**

- (1) A proceeding for a summary offence against this Act, may be commenced only before the later of the following —
 - (a) 3 years after the commission of the offence; or
 - (b) 6 months after the prosecutor first had sufficient evidence of the offence.
- (2) For subsection (1)(b), a prosecutor's certificate stating when the prosecutor first had the sufficient evidence is evidence of that fact.
- (3) Subsection (1) is an express contrary provision for section 75(1) (limitation of time) of the *Summary Jurisdiction Act 1989*.
- (4) In this section —

“prosecutor's certificate” means a certificate signed, or purporting to be signed, by or for the prosecutor; and

“sufficient evidence”, of the offence, means evidence that, in the prosecutor's opinion, is sufficient to justify the proceeding.

DIVISION 2 — EVIDENTIARY PROVISIONS

158 Appointment and authority

In a proceeding under or relating to this Act the following must be presumed, unless a party to the proceeding, by reasonable notice, requires proof of it —

- (a) a person's appointment as an inspector; and
- (b) DHSC's or an inspector's power to do anything under this Act.¹³⁹

159 General evidentiary provisions

- (1) This section applies to a proceeding under or relating to this Act.
- (2) A certificate signed, or purporting to be signed, by the relevant person stating any of the following matters is evidence of the matter —
 - (a) that a stated document of any of the following types is a document given, issued, kept or made under this Act or a UK care Act —
 - (i) an application;
 - (ii) an appointment, approval or decision;
 - (iii) a register;
 - (iv) a notice under the Act of the type stated;
 - (v) a requirement;

- (vi) a report; or
- (vii) another document.
- (b) that a stated document is a copy of, or an extract from or part of, a document mentioned in paragraph (a);
- (c) that on a stated day, or during a stated period, a person was or was not —
 - (i) a registered provider, registered manager or a responsible person for a care service or registered to perform social work, or social work of a stated type;
 - (ii) totally disqualified, disqualified for children, specifically disqualified for a stated category of care service or disqualified because of insolvency; or
 - (iii) the subject of a disqualification exemption;
- (d) that on a stated day a stated person was given a stated notice or that a requirement under the Act was made of the person; or
- (e) that a stated amount is payable under the Act by a stated person and that amount has not been paid.
- (3) In this section, “relevant person” means —
 - (a) for this Act, DHSC’s Minister; or¹⁴⁰
 - (b) for a UK care Act, the person who may under that Act give a certificate under a provision of that Act that is the same as, or similar to, this section.

PART 9 — CLOSING PROVISIONS

DIVISION 1 — GENERAL

160 Forms

- (1) DHSC may make forms for use under this Act.¹⁴¹
- (2) A form made under subsection (1) is the “**required form**” for the use for which it is made.

161 General regulation-making powers

- (1) DHSC may make regulations for the purposes of this Act.¹⁴²
- (2) Regulations may —
 - (a) provide for the registration of social care workers and for any type of matter relating to such registration that corresponds, or substantially corresponds, to a matter provided under Part 3 for the registration of independent care services;

- (b) [Repealed]¹⁴³
 - (c) [Repealed]¹⁴⁴
 - (d) impose fees for this Act; and
 - (e) create offences for contraventions of the regulations and impose a maximum penalty (summary) of £5,000 or less for the offences.
- (3) [Repealed]¹⁴⁵

162 Tynwald procedure

Section 32 of the *Legislation Act 2015* (negative Tynwald procedure) applies to regulations under this Act.¹⁴⁶

163 Repeal of Acts

The *Nurses and Midwives Act 1947* and the *Nursing and Residential Homes Act 1988* are repealed.

DIVISION 2 – SAVINGS AND TRANSITIONAL

SUBDIVISION 1 – PRELIMINARY

164 Definitions for Division

In this Division –

“**care service notice**” see section 174(1);

“**converted registrant**” see section 171(1);

“**exempt care service**” means that, under Part 3, Division 2, Subdivision 2 (exemptions from registration requirement), the registration requirement does not apply to the person carrying the care service;

“**existing regulated care service**” means a care service (other than a Department care service or an exempt care service) that is childminding or an adult care home, children’s home, child day care centre or nurses agency that was required to be registered under a repealed care law;¹⁴⁷

“**manager**” see section 173(2);

“**newly regulated care service**” means –

- (a) a care service (other than a Department care service or an exempt care service) that is an adult placement agency, adult day care centre, child care agency, child (secure accommodation) establishment, domiciliary care agency, fostering agency, independent clinic, independent hospital, independent medical agency, offender accommodation service, voluntary adoption agency or residential family centre; and

- (b) a care service mentioned in the definition “existing regulated care service” (other than a Department care service or an exempt care service) that was, immediately before the enactment of this Act, not required to be registered under a repealed care law;

Example for paragraph (b):

A children’s home providing accommodation for 3 children or less at any one time. See repealed sections 50 and 51 of CYPA 2001.¹⁴⁸

“**provider**” see section 173(1);

“**registered**” includes licensed under a repealed care law;

“**registration**” includes a licence; and

“**registration grace period**”, for a care service, means the period that starts when section 52 (offence to carry on or manage without registration) commences and that ends —

- (a) for an existing regulated care service —
- (i) generally, 6 months after that section commences; or
 - (ii) if, within the 6 months, a longer period is prescribed, when the longer period ends; or
- (b) for a newly regulated care service, on the day prescribed for the registration requirement to apply to that category of care service or to all newly regulated care services.

SUBDIVISION 2 — CONVERSIONS TO ACT FOR EXISTING REGULATED CARE SERVICES

165 Children’s homes under a repealed care law¹⁴⁹

- (1) This section applies if —
- (a) immediately before this Act’s enactment, a children’s home was registered (the “old registration”) under a repealed care law as a children’s home; and¹⁵⁰
 - (b) the person recorded under the old registration as carrying on the children’s home (the “recorded person”) is not any of the following under this Act —
 - (i) totally disqualified;
 - (ii) disqualified for children; or
 - (iii) disqualified because of insolvency.¹⁵¹
- (2) On the enactment —
- (a) the old registration becomes a provider registration under this Act for the children’s home; and¹⁵²
 - (b) the recorded person becomes the registered provider for the children’s home.¹⁵³

- (3) [Repealed]¹⁵⁴

166 Childminders under a repealed care law

- (1) This section applies if —
- (a) immediately before this Act's enactment, a person was registered under a repealed care law as a person who acts as a childminder; and
 - (b) the person is not, under this Act, totally disqualified and is not disqualified for children.
- (2) On the enactment, the person becomes a registered childminder.
- (3) In this section, "childminder" includes child-minder.

167 Child day care centres under a repealed care law

- (1) This section applies if —
- (a) immediately before this Act's enactment, a person was registered under a repealed care law as a person who provides day care for children; and
 - (b) the person is not any of the following under this Act —
 - (i) totally disqualified;
 - (ii) disqualified for children; or
 - (iii) disqualified because of insolvency.
- (2) On the enactment —
- (a) there is created a provider registration as a child day care centre for each premises for which the person was so registered; and
 - (b) the person becomes the registered provider for each of the provider registrations.

168 Nursing and residential homes under a repealed care law

- (1) This section applies if —
- (a) immediately before this Act's enactment, a care service was being carried on at premises registered under a repealed care law (the "old registration") as a nursing home or residential care home; and
 - (b) neither the recorded provider nor the recorded manager were any of the following —
 - (i) totally disqualified;
 - (ii) specifically disqualified for a care service of the category adult care home; or
 - (iii) disqualified because of insolvency.

- (2) On the enactment —
 - (a) the old registration becomes both provider registration and manager registration under this Act for the home as an adult care home;
 - (b) the recorded provider becomes the registered provider for the home; and
 - (c) the recorded manager becomes the registered manager for the home.
- (3) In this section —

“recorded manager” means the person recorded under the old registration as managing the home; and

“recorded provider” means the person recorded under the old registration as carrying on the home.

169 Mental nursing homes under a repealed care law

- (1) This section applies if —
 - (a) immediately before this Act’s enactment, a care service was being carried on at premises registered under a repealed care law (the “old registration”) as a mental nursing home; and
 - (b) neither the recorded provider nor the recorded manager were any of the following —
 - (i) totally disqualified;
 - (ii) specifically disqualified for a care service of the category adult care home or independent hospital; or
 - (iii) disqualified because of insolvency.
- (2) On the enactment —
 - (a) the old registration becomes both provider registration and manager registration under this Act for the home;
 - (b) the recorded provider becomes the registered provider for the home; and
 - (c) the recorded manager becomes the registered manager for the home.
- (3) The category of the provider registration is either an adult care home or an independent hospital, as chosen by the registered provider by notice (an “election notice”) to DHSC.¹⁵⁵
- (4) However, the registered provider may give an election notice choosing the category of independent hospital only if, before giving the notice, DHSC has agreed in writing that the registered provider complies with the registration criteria for that category.¹⁵⁶

- (5) An election notice may be given at any time before or after the enactment.
- (6) In this section —
 - “recorded manager” means the person recorded under the old registration as managing the home; and
 - “recorded provider” means the person recorded under the old registration as carrying on the home.

170 Nurses agencies under a repealed care law

- (1) This section applies if —
 - (a) immediately before this Act’s enactment, a person was registered under a repealed care law to carry on an agency for the supply of nurses; and
 - (b) the person is not any of the following —
 - (i) totally disqualified or disqualified for children;
 - (ii) specifically disqualified for a care service of the category nurses agency; or
 - (iii) disqualified because of insolvency.
- (2) On the enactment, the person becomes the registered provider for the agency as a nurses agency.

171 Application of Act to converted registrations

- (1) This section applies if, under this Subdivision, a person becomes a registered provider or registered manager (a “**converted registrant**”).
- (2) A converted registrant’s registration is subject to this Act, including the mandatory conditions.
- (3) However, if under the relevant repealed care law a manager was not required for the care service, until the end of the registration grace period for the care service, the care service need not have a registered manager or a responsible person.
- (4) Subject to section 179 (amendment of converted conditions), the conditions of the registration under the repealed care law for which the person became a registered provider become decided conditions of the provider registration.
- (5) However, if any of the conditions conflict with a mandatory condition, the mandatory condition prevails to the extent of the inconsistency.

172 Registers and registration certificates during registration grace period

- (1) This section applies, despite the repeal of any repealed care law, until the end of the registration grace period for all newly regulated care services.

- (2) DHSC may continue to keep registers under a repealed care law to record the registration under this Act of converted registrants.¹⁵⁷
- (3) In keeping the registers DHSC may —
 - (a) act as if the repealed care law continues to apply for the register; but
 - (b) change the register in any way it considers appropriate for this Act.¹⁵⁸
- (4) Until DHSC gives a converted registrant a registration certificate under this Act for the provider registration, any certificate (whatever called) issued under a repealed care law continues in force for the registration under this Act.¹⁵⁹

SUBDIVISION 3 — OTHER CARE SERVICES DURING REGISTRATION GRACE PERIOD

173 Application of Subdivision

- (1) This Subdivision applies to a person (the “**provider**”) who —
 - (a) from this Act’s enactment, carries on a care service; and
 - (b) is not a converted registrant for the care service.
- (2) This Subdivision also applies to a person (the “**manager**”) who —
 - (a) from the enactment, manages a care service; and
 - (b) is not a converted registrant for the care service.

174 Offence: notification requirement for care service

- (1) The provider and the manager must, as soon as practicable after the registration grace period for the care service starts, give DHSC a notice (a “**care service notice**”), in the required form if there is one, giving information about the provider or the manager, as the case may be, and the care service.¹⁶⁰

Maximum penalty (summary) — £5,000.

- (2) The provider may, in the same document, give a care service notice for the provider and the manager.
- (3) To avoid any doubt, this Act applies to the provider and the manager during the registration grace period for the care service whether or not that person has given a care service notice for the care service.

175 Deferral of registration requirement if notice given

- (1) This section applies only until the registration grace period for the care service ends.

- (2) If the provider or manager has given a care service notice for the care service, the registration requirement does not apply to that person in relation to the requirement for –
 - (a) if the notice was given by the provider, provider registration; or
 - (b) if the notice was given by or for the manager, manager registration.
- (3) However, section 34(2)(a) and (b) (general functions) and Part 4 (monitoring and enforcement) apply as if the provider and the manager were subject to the registration requirement for the care service.
- (4) This section ceases to apply to the provider or manager if that person becomes registered for the care service or is refused registration for the care service.

176 Requirements of provider and manager during the period

- (1) During the registration grace period for the care service, the provider and manager must comply with the mandatory conditions and the minimum standards to the extent they are relevant, as if that person were the following –
 - (a) for the provider, its registered provider; or
 - (b) for the manager, its registered manager.

Maximum penalty (summary) – 4 times level 5 on the standard scale.¹⁶¹

- (2) To avoid any doubt, subsection (1) –
 - (a) applies to a person whether or not the person has given a service notice for the care service; and
 - (b) ceases to apply to a person if the person becomes registered for the care service.

SUBDIVISION 4 – REGISTRATION APPLICATIONS DURING REGISTRATION GRACE PERIOD

177 Registration applications during the period

- (1) This section applies if a person wishes to make a registration application during the registration grace period.
- (2) If there are no regulations about how to make a registration application of that type, the following apply for the application –
 - (a) the prescribed fee is the amount DHSC considers is reasonable for the type; and¹⁶²
 - (b) the prescribed information, matters and documents (the “requirements”) are those DHSC reasonably requires for the type.¹⁶³

- (3) In deciding the fee and the requirements, DHSC may have regard to the things needed for any similar type of application under a UK care Act.¹⁶⁴
- (4) DHSC may, but need not, start to decide the application, or defer considering it until the period ends.¹⁶⁵
- (5) To avoid any doubt, this section does not —
 - (a) permit a person to make a registration application that cannot be made under Part 3; or
 - (b) affect the operation of Part 7, Division 1 (disqualification offences).

SUBDIVISION 5 – OTHER TRANSITIONAL PROVISIONS

178 Provisions for disqualification

- (1) If, immediately before this Act's enactment, the consent of the former Department of Social Care under CYPA 2001 was in force for a disqualification relating to a category of care service, on the enactment, it is taken to be a disqualification exemption under this Act for that category.¹⁶⁶
- (2) Subsection (3) applies to a proceeding for an offence against Part 7, Division 1 (disqualification offences) about anything done during the registration grace period concerning a care service.
- (3) It is a defence for the defendant to prove the circumstances constituting the disqualification in question under this Act did not amount to a disqualification under CYPA 2001.
- (4) In this section, "CYPA 2001" means that Act as in operation before the enactment.

179 Amendment of converted conditions

- (1) This section applies to any registration conditions under a repealed care law.

Note:
For when this happens, see section 171(4) (application of Act to converted registrations).
- (2) For section 86 (amendments: general), an amendment of the conditions is taken to be necessary or desirable if DHSC wishes to —
 - (a) amend them to make them compatible with this Act; or
 - (b) impose decided conditions to make the carrying on of the care service compatible with this Act.¹⁶⁷

180 Existing applications, decisions and appeals

- (1) The following apply if immediately before this Act's enactment, a registration application had been made but not decided under a repealed care law —
 - (a) on the enactment, the application is taken to be a registration application under this Act; and
 - (b) this Act (other than section 93 (noncompliant applications)) applies to the deciding of the application.
- (2) A decision made under a repealed care law about a converted registrant —
 - (a) continues in operation but as a corresponding decision of its type under this Act; and
 - (b) is taken to have been made under this Act when it was made under the repealed care law.
- (3) An appeal under the repealed care law against the decision started but not decided before the enactment may be continued and decided as if the repealed care law had not been repealed.
- (4) A decision on the appeal operates as if it has been made for a corresponding decision of its type under this Act.

181 Existing inspectors and authorised persons become inspectors

- (1) This section applies to a person if, immediately before this Act's enactment, the person was appointed or authorised (the "old authorisation") by DHSC to perform inspections under a repealed care law.¹⁶⁸
- (2) On the enactment, the person becomes an inspector under this Act for the rest of the term of the old authorisation and subject to all of its conditions.
- (3) Subsection (4) applies if, immediately before the enactment —
 - (a) the person had been issued a card (whatever called) identifying the person as the person holding the old authorisation; and
 - (b) the card has not expired according to its terms.
- (4) The card is taken to be an identity card issued to the person as an inspector until the earlier of the following —
 - (a) the person is issued an identity card under this Act; or
 - (b) the card expires according to its terms.

182 References to repealed care law

A reference in an Act or a document —

- (a) to a repealed care law is taken to be a reference to this Act; and
- (b) to a provision of a repealed care law (“the former provision”) is taken to be a reference to the provision or provisions of this Act that correspond, or substantially correspond, to the former provision.

183 [Expired]¹⁶⁹

184 Existing unregistered social care workers

- (1) This section applies if, immediately before section 142 (offences concerning social care worker registration) comes into operation, a person —
 - (a) was employing or engaging a person (the “worker”) to perform designated work as defined under section 142(1)(a); or
 - (b) was carrying on a business involving the performance of that type of work by the person.
- (2) Section 142 does not apply to the person for the performance of the work until 3 months after this Act’s enactment.
- (3) Also, if, within the 3 months, the worker or the person applies for the relevant registration mentioned in section 142(1)(a), this section does not apply to the person until the application is finally decided or is withdrawn.

185 Transitional regulation-making power

Regulations may provide for a matter relating to any of the following about which DHSC considers this Division does not make provision or sufficient provision —

- (a) the transition from a repealed care law to this Act; or
- (b) the coming under this Act of a newly regulated care service.¹⁷⁰

SUBDIVISION 6 — EXPIRY

186 Expiry of parts of Division about registration grace period

This Division (other than the Division heading and sections 178 to 185) expires on the day on which all newly regulated care services have been prescribed under paragraph (b) of the definition of “registration grace period” under section 164.

PART 10 – AMENDMENTS OF LEGISLATION

187 to 205 [The amendments made by sections 187 to 205 to various Acts have been incorporated in those Acts.]

Section 205(11) and (13) which concern secondary legislation are reproduced below.

- (11) The Disqualification for Caring for Children Regulations 2002¹ are amended by omitting the following words from the following provisions –
- (a) “or registration under Part 7 of the Act” and “or for registration under section 64 of the Act (child-minding and day-care)) from regulation 2; and
 - (b) “and registration under section 64 of the Act” of the Schedule.
- (13) The Nursing and Midwifery Order 2002 and the Children’s Homes Regulations 2002 are revoked².

DIVISION 5¹⁷¹

¹ SD 876/02

² SD 159/02 and SD 872/02



SCHEDULE

[section 33(1)]

DEFINITIONS

“**adoption Act**” see section 32(a).

“**adoption society offence**” means an offence against section 14(4) (adoption service) of the adoption Act.

“**adult**” means a person 18 years old or over.

“**adult care home**” see section 16.

“**adult day care centre**” see section 17.

“**adult placement agency**” see section 18.

“**agency care service**” see section 6(1)(a).

“**agreed condition**”, for a provision about a registration application or a registered person, means any decided condition to which the applicant or person has agreed in writing (in response to a notice under the procedural fairness requirements or otherwise).

“**amend**” —

1. To “**amend**” a person’s registration —
 - (a) includes —
 - (i) changing the care service’s responsible person; and
 - (ii) omitting any or all of the decided conditions of the registration and inserting new decided conditions; and
 - (iii) amending the registration to reflect a change to the person’s name; but
 - (b) does not include —
 - (i) substituting someone else for the person;
 - (ii) if the person is a body corporate, changing its status; or
 - (iii) amending a mandatory condition.
2. To “**amend**” decided conditions, includes to omit any or all of the conditions and to insert new decided conditions.

“**amendment application**” see section 74(1).

“**appeal notice**”, about a decision, means a notice stating —

- (a) the decision and the reasons for it;
- (b) that the recipient of the notice may appeal against the decision to the tribunal; and
- (c) how to appeal.

“**appeal rules**” means the rules under section 8 of the tribunals Act for appeals under this Act.

“**at**”, a care service, place or premises includes on or from or in the care service, place or premises.

“**body corporate**” means a body established or incorporated under incorporation legislation.

“**British Islands legislation**” means —

- (a) legislation made by Tynwald, Parliament or another legislature of the British Islands; and
- (b) an instrument of a legislative character made under legislation mentioned in paragraph (a).

“**business**” includes —

- (a) one carried on from a private dwelling, including, for example, childminding;
- (b) one not carried on for profit;
- (c) an occupation or profession (a “service”) carried on by someone who is self-employed to perform the service;
- (d) a service provided by a body corporate by way of any of its activities; and
- (e) a service provided by any of the following to perform any of its functions —
 - (i) a Department other than DHSC;¹⁷²
 - (ii) a Statutory Board; or
 - (iii) a joint board under the *Local Government Act 1985*.

“**care offence**” means any of the following —

- (a) a registration-related offence;
- (b) an offence against Part 7, Division 1 (disqualification offences);
- (c) the ill-treatment or neglect offence;
- (d) an offence against CYPA 2001;
- (e) an offence against Part 9 of the mental health Act;
- (f) for a voluntary adoption agency, an adoption society offence;
- (g) an offence against a corresponding law to this Act if the offence is the same as, or similar to, an offence mentioned in paragraphs (a) to (c); or
- (h) an offence against a law outside the Island that corresponds, or is similar to, or provides for matters similar to the matters provided for under an Act or provision mentioned in paragraphs (d) to (f) if the offence is the same as, or similar to, an offence against the Act or provision.

- “**care premises**” see section 115(1).
- “**care service**” see section 6(1).
- “**carries on**”, for a care service, see section 13.
- “**category**”, of care service, see section 6(2).
- “**child**” means a person under 18 years old.
- “**child care agency**” see section 19.
- “**child day care**” see section 20(a).
- “**child day care centre**” see section 20.
- “**child (secure accommodation) establishment**” see section 23.
- “**childminder**” see section 21(3).
- “**childminder registration**” see section 41(1).
- “**childminding**” see section 21.
- “**child-related**” for —
- (a) a care service or category of care service, see section 12; or
 - (b) registration, see section 41(3).
- “**children’s home**” see section 22.¹⁷³
- “**commence**” [Repealed]¹⁷⁴
- “**compliance notice**” see section 135(2).
- “**convicted**”, of an offence (the “relevant offence”), includes —
- (a) a guilty plea or a finding of guilt for the relevant offence;
 - (b) the making of an order under the *Criminal Justice Act 1963* placing a person on probation or discharging a person absolutely or conditionally for the relevant offence;
 - (c) a conviction for an offence against a corresponding law to this Act if the act that constituted the offence would, had it taken place on the Island, have constituted the offence in question or been similar to it; and
 - (d) a conviction for the relevant offence that has become spent under the *Rehabilitation of Offenders Act 2001*.
- “**corresponding law**”, to this Act, means —
- (a) a UK care Act; and
 - (b) another law outside the Island that corresponds, or is similar to, this Act or provides for matters similar to the matters provided for under this Act.
- “**cost recovery notice**” see section 92(2).

“**current cancellation notice**”, for a provision about registration, means a proposal notice to cancel the registration which proposal notice has not been withdrawn under section 99.

“**CYPA 2001**” see section 9.

“**decided conditions**”, for a provision about registration or a registration application, means —

- (a) generally, see section 60(2); or
- (b) if decided conditions decided under section 60 have, under Part 3, Division 3 (obtaining registration) or 5 (changing registration on the registered person’s initiative), been amended, those conditions as most recently amended.

“**Department care service**” see section 9.

“**DHSC**” see section 2.¹⁷⁵

“**DHSC’s proposal**” see section 96.¹⁷⁶

“**disqualification exemption**” see section 43(2)(a).

“**disqualification notice (unregistered childminder)**” see section 138(2).

“**disqualified because of insolvency**” see section 43(1)(d).

“**disqualified for children**” see section 43(1)(b).

“**document**” includes a record.

“**enactment**” [Repealed]¹⁷⁷

“**domiciliary care agency**” see section 24.

“**education Act**” see section 22(4), definition “proprietor”.

“**engage**”, a person, means engaging the person other than under a contract of employment to perform work, whether or not for reward.

“**fostering agency**” see section 25.

“**hospital**” see section 43 of the NHS Act.

“**identity card**” means an identity card issued under section 112.

“**illness**” includes injury.

“**ill-treatment or neglect offence**” see section 152(2).

“**improvement notice**” see section 132(2).

“**incorporation legislation**” means any British Islands legislation under which entities are incorporated.

“**independent care service**” see section 10.

“**independent clinic**” see section 26.

“**independent hospital**” see section 27.

“**independent medical agency**” see section 28.

“**independent school**” see section 59(1) of the education Act.

“**inspector**” see section 111(3).

“**interested person**” see section 97(1).

“**involved with**”, a care service, means any of the following —

- (a) carrying on or managing the care service;
- (b) being concerned in its management; or
- (c) having a financial interest (other than the holding of a listed share or security) in the care service or the business carrying on a care service.

“**listed share or security**” means a share or security that is listed or admitted to trade on a securities market or investment exchange (or a similar body, whatever called) recognised under any British Islands legislation.

“**manager registration**” see section 39(1).

“**manages**”, a care service, see section 14.

“**mandatory conditions**” see section 65.

“**maximum penalty**” [Repealed]¹⁷⁸

“**medical**” includes surgical.

“**medical practitioner**” means a fully registered person under the *Medical Act 1985*.

“**member**”, for a provision about a body corporate, means a person who, under incorporation legislation, means —

- (a) a beneficiary or partner of the body; or
- (b) is a member, shareholder or the holder of securities in or of the body other than because of the holding of a listed share or security.

“**mental disorder**”, for a person, means that the person has mental illness, arrested or incomplete development of mind, psychopathic disorder, or another disorder or disability of mind.

“**mental health Act**” see section 27(1)(b).

“**minimum standards**” see section 35(1).

“**monitoring function**”, for DHSC, see 34(2).¹⁷⁹

“**NHS Act**” see section 26(2)(b).

“**NHS hospital**” means a hospital provided under Part 3 (hospital and specialist services) of the NHS Act.

“**nominated replacement**” see section 75(2)(a).

“**nominee**”, for a provision about a registration application, see section 57(2)(a).

“**non-NHS health care service**” see section 11.

“**notice**” means a notice in writing.

“**nurse**” means a registered nurse.

“**nurses agency**” see section 29.

“**offence warning**” for —

- (a) a requirement under this Act, means a warning that it is an offence to contravene the requirement, unless the person of whom the requirement is made has a reasonable excuse; or
- (b) a person obstructing an inspector, means a warning that it is an offence to intentionally obstruct the inspector.

“**offender accommodation service**” see section 30.

“**officer**”, for a provision about a body corporate, means a director, secretary, manager, or other officer of the body, of whatever named called or, for a foundation under the *Foundations Act 2011*, a member of its council.

“**personal care**”, from one person to another, means —

- (a) helping the other person with their day-to-day bodily functions; and

Examples of day-to-day bodily functions:

Dressing, washing, bathing, shaving, hair care and grooming, toileting, getting in or out of bed, transferring to a commode or chair, eating, drinking, monitoring and self-medication.

- (b) giving the other person advice, encouragement, emotional and psychological support with those bodily functions.

“**personal representative**” [Repealed]¹⁸⁰

“**personal support**” means counselling, emotional support or other help provided as part of a planned programme of care.

“**physical disability**”, for a person, means that —

- (a) the person’s sight, hearing or speech is substantially impaired; or
- (b) the person is physically substantially disabled or infirm by any illness, any impairment present since birth, or otherwise.

“**practical assistance**”, from one person to another, means performing domestic tasks for the other person or helping them with domestic tasks, but does not include a prescribed activity.

Examples of domestic tasks:

Cleaning, laundry, cooking, shopping services and collecting prescriptions.

“**prescribed**” means prescribed by regulations made by DHSC.¹⁸¹

“**private dwelling**” means premises, or any part of premises, used wholly or mainly usable as a place of residence.

“**procedural fairness requirements**” see section 59(2)(b).

“**production requirement**” see sections 122(1) and 126(2).

“**proposal notice**” see section 97(1).

“**provider registration**” see section 38(1).

“**reasonably believes**” means to believe on grounds that are reasonable in all the circumstances.

“**reasonably suspects**” means to suspect on grounds that are reasonable in all the circumstances.

“**recipient**”, for a provision about —

- (a) a notice, means the person to whom the notice has been given; or
- (b) a notice proposed to be given, means the person to whom the notice is proposed to be given.

“**register**”, when used as a noun, means the register DHSC keeps under section 107.¹⁸²

“**registered childminder**” see section 41(2).

“**registered manager**” see section 39(2).

“**registered person**” see section 40.

“**registered provider**” see section 38(2).

“**registration**”, without any reference to a particular type, see section 42(1).

“**registration application**” see section 56(1).

“**registration condition**”, for a provision about registration, means a decided condition (including an agreed condition) or a mandatory condition of the registration.

“**registration criteria**” see section 58(1).

“**registration requirement**” see section 52(3).

“**registration-related offence**” means an offence against any of the following —

- (a) Part 3 (registration of independent care services);
- (b) a provision of a regulation relating to registration;
- (c) section 137 (offence: contravention of compliance notice); or
- (d) section 151(1) (false descriptions about registration or Department care services) if the prohibited action constituting the offence relates to registration.

“**regulations**” means regulations made by DHSC.¹⁸³

“**repealed care law**” means any of the following —

- (a) the repealed *Nurses and Midwives Act 1947*;
- (b) the repealed *Nursing and Residential Homes Act 1988*; or

- (c) any of the provisions of repealed Part 6 of, or Schedules 6 and 7 to, CYPA 2001.

“**required form**” see section 160(2).

“**residential family centre**” see section 31.

“**responsible person**”, for a care service —

- (a) generally, see section 62(2); or
- (b) if there has been a responsible person change for the care service, means the person who most recently became its responsible person under section 77(3).

“**responsible person change**” see section 66(2)(b)(ii).

“**role**”, for a premises entered by an inspector, see section 119.

“**school**” see section 59(1) of the education Act.

“**see**” [Repealed]¹⁸⁴

“**service recipient**” see section 120(d)(ii).

“**social care**” see section 5.

“**social care work**” see section 139(1).

“**social care worker**” see section 139(2).

“**social work**” see section 140(1).

“**social worker**” see section 140(2).

“**specifically disqualified**” see section 43(1)(c).

“**suitable for childminding**” see section 51.

“**suitable manager**”, for a care service, see section 49(1).

“**suitable supervisor**”, for a care service, see section 49(2).

“**surrender application**” see section 80(a).

“**totally disqualified**” see section 43(1)(a).

“**treatment**” includes diagnosis.

“**tribunal**” means the Care Services Tribunal established under section 143(1).

“**tribunals Act**” see section 144(b).

“**UK care Act**” means any of the following —

- (a) the *Care Standards Act 2000* and the Health and Social Care Act 2008, both of Parliament;
- (b) the Health and Personal Social Services Act (Northern Ireland) 2001;
- (c) the Regulation of Care (Scotland) Act 2001; or

(d) any other British Islands legislation that corresponds, or is similar to, an Act mentioned in paragraphs (a) to (c).

“**urgent amendment**” see section 89(1)(a).

“**urgent cancellation**” see section 89(1)(c).

“**urgent suspension**” see section 89(1)(b).

“**voluntary adoption agency**” see section 32.

“**withdraw**”, for a notice, includes repealing or revoking it.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ ADO S 52 operative 2/1/14 [SD411/13].
- ² ADO Part 5 operative 1/5/14 [SD2014/94].
- ³ S 2 amended by SD2014/08.
- ⁴ Para (a) amended by SD2014/08.
- ⁵ Para (b) amended by SD2014/08.
- ⁶ Para (f) amended by SD2014/08.
- ⁷ Para (d) amended by Equality Act 2017 Sch 23.
- ⁸ S 9 amended by SD2014/08.
- ⁹ Para (c) amended by Equality Act 2017 Sch 23.
- ¹⁰ Subs (3) amended by Equality Act 2017 Sch 23.
- ¹¹ S 22 heading amended by Equality Act 2017 Sch 23.
- ¹² Para (b) amended by Equality Act 2017 Sch 23.
- ¹³ Subs (1) amended by Equality Act 2017 Sch 23.
- ¹⁴ Subs (2) amended by Equality Act 2017 Sch 23.
- ¹⁵ Para (e) amended by Equality Act 2017 Sch 23.
- ¹⁶ Subs (3) amended by Equality Act 2017 Sch 23.
- ¹⁷ Para (e) amended by SD2014/08.
- ¹⁸ Subs (3) repealed by Interpretation Act 2015 s 105.
- ¹⁹ Subs (4) repealed by Interpretation Act 2015 s 105.
- ²⁰ Part 2 heading amended by SD2014/08.
- ²¹ Subs (1) amended by SD2014/08.
- ²² Subs (2) amended by SD2014/08.
- ²³ Subs (3) amended by SD2014/08.

- ²⁴ Subs (1) amended by SD2014/08.
- ²⁵ Subs (3) amended by SD2014/08.
- ²⁶ S 36 amended by SD2014/08.
- ²⁷ Para (a) amended by SD2014/08.
- ²⁸ Subs (1) amended by SD2014/08.
- ²⁹ Para (b) amended by SD2014/08.
- ³⁰ Subs (4) amended by SD2014/08.
- ³¹ Subs (5) amended by SD2014/08.
- ³² Subs (6) amended by SD2014/08.
- ³³ Subs (1) amended by SD2014/08.
- ³⁴ Subs (2) amended by SD2014/08.
- ³⁵ Subs (2) amended by Interpretation Act 2015 s 55.
- ³⁶ Para (a) amended by Equality Act 2017 Sch 23.
- ³⁷ Subs (2) amended by SD2017/0325.
- ³⁸ Subs (1) amended by SD2014/08.
- ³⁹ Para (a) amended by SD2014/08.
- ⁴⁰ Para (b) amended by SD2014/08.
- ⁴¹ Subs (1) amended by SD2014/08.
- ⁴² Para (a) amended by SD2014/08.
- ⁴³ Para (b) amended by SD2014/08.
- ⁴⁴ Subs (3) amended by SD2014/08.
- ⁴⁵ Subs (1) amended by SD2014/08.
- ⁴⁶ Subs (3) amended by SD2014/08.
- ⁴⁷ Subs (1) amended by SD2014/08.
- ⁴⁸ Subs (3) amended by SD2014/08.
- ⁴⁹ Subpara (i) amended by SD2014/08.
- ⁵⁰ S 63 amended by SD2014/08.
- ⁵¹ Subs (3) amended by SD2014/08.
- ⁵² Subs (1) amended by SD2014/08.
- ⁵³ Subs (2) amended by SD2014/08.
- ⁵⁴ Para (a) amended by SD2014/08.
- ⁵⁵ Subs (1) amended by SD2014/08.
- ⁵⁶ Para (a) amended by SD2014/08.
- ⁵⁷ Para (b) amended by SD2014/08.
- ⁵⁸ Subs (3) amended by SD2014/08.
- ⁵⁹ Subs (1) amended by SD2014/08.
- ⁶⁰ Subs (4) amended by SD2014/08.
- ⁶¹ Subs (1) amended by SD2014/08.
- ⁶² Para (a) amended by SD2014/08.
- ⁶³ Para (a) amended by SD2014/08.
- ⁶⁴ Subs (1) amended by SD2014/08.

- ⁶⁵ Subs (2) amended by SD2014/08.
- ⁶⁶ Subs (1) amended by SD2014/08.
- ⁶⁷ Subs (3) amended by SD2014/08.
- ⁶⁸ Division 6 heading amended by SD2014/08.
- ⁶⁹ S 85 amended by SD2014/08.
- ⁷⁰ S 86 amended by SD2014/08.
- ⁷¹ Para (b) amended by SD2014/08.
- ⁷² Subs (1) amended by SD2014/08.
- ⁷³ Para (c) amended by SD2014/08.
- ⁷⁴ Subs (1) amended by SD2014/08.
- ⁷⁵ Para (b) amended by SD2014/08.
- ⁷⁶ Para (l) amended by SD2014/08.
- ⁷⁷ Subs (1) amended by SD2014/08.
- ⁷⁸ Subs (2) amended by SD2014/08.
- ⁷⁹ S 92 heading amended by SD2014/08.
- ⁸⁰ Para (a) amended by SD2014/08.
- ⁸¹ Subs (2) amended by SD2014/08.
- ⁸² Subs (3) amended by SD2014/08.
- ⁸³ Subs (5) amended by SD2014/08.
- ⁸⁴ Subs (7) amended by SD2014/08 and by Public Services Commission Act 2015 Sch.
- ⁸⁵ Subdivision heading amended by Interpretation Act 2015 s 107.
- ⁸⁶ Subs (1) amended by SD2014/08.
- ⁸⁷ Subs (2) amended by SD2014/08.
- ⁸⁸ Para (a) amended by SD2014/08.
- ⁸⁹ Para (b) amended by SD2014/08.
- ⁹⁰ Para (c) amended by SD2014/08.
- ⁹¹ S 94 amended by SD2014/08.
- ⁹² Para (c) amended by SD2014/08.
- ⁹³ S 95 amended by SD2014/08.
- ⁹⁴ S 96 amended by SD2014/08.
- ⁹⁵ Subs (1) amended by SD2014/08.
- ⁹⁶ Subs (2) amended by SD2014/08.
- ⁹⁷ Para (b) amended by SD2014/08.
- ⁹⁸ Subs (3) amended by SD2014/08.
- ⁹⁹ S 98 amended by SD2014/08.
- ¹⁰⁰ S 99 amended by SD2014/08.
- ¹⁰¹ Subs (1) amended by SD2014/08.
- ¹⁰² Subs (2) amended by SD2014/08.
- ¹⁰³ Para (b) amended by SD2014/08.
- ¹⁰⁴ S 105 amended by Interpretation Act 2015 s 55.
- ¹⁰⁵ Subs (1) amended by SD2014/08.

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- ¹⁰⁶ Subs (2) amended by SD2014/08.
- ¹⁰⁷ Subs (3) amended by SD2014/08.
- ¹⁰⁸ Subs (4) amended by SD2014/08.
- ¹⁰⁹ Para (b) amended by SD2014/08.
- ¹¹⁰ Subs (1) amended by SD2014/08.
- ¹¹¹ Subs (3) amended by SD2014/08.
- ¹¹² Subs (1) amended by SD2014/08.
- ¹¹³ Subs (2) amended by Interpretation Act 2015 s 106.
- ¹¹⁴ Subs (3) amended by SD2014/08.
- ¹¹⁵ S 110 heading amended by SD2014/08.
- ¹¹⁶ Para (c) amended by SD2014/08.
- ¹¹⁷ Subs (2) amended by SD2014/08.
- ¹¹⁸ Editorial Note - References to a provision of the Data Protection Act 2002, except Part 3, must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/08/2018. References to a provision in Part 3 of the Data Protection Act 2002 must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/03/2019.
- ¹¹⁹ Para (c) amended by SD2014/08.
- ¹²⁰ Para (a) amended by SD2014/08.
- ¹²¹ Subs (1) amended by SD2014/08.
- ¹²² Subs (1) amended by SD2014/08.
- ¹²³ Subs (1) amended by SD2014/08.
- ¹²⁴ Subs (5) amended by SD2014/08.
- ¹²⁵ Subs (2) amended by SD2014/08.
- ¹²⁶ Para (a) amended by SD2014/08.
- ¹²⁷ Subs (1) amended by SD2014/08.
- ¹²⁸ Para (b) amended by SD2014/08.
- ¹²⁹ S 127 repealed by Interpretation Act 2015 s 105.
- ¹³⁰ Para (c) amended by SD2014/08.
- ¹³¹ Subs (1) amended by SD2014/08.
- ¹³² Subs (2) amended by SD2014/08.
- ¹³³ S 137 amended by Interpretation Act 2015 s 55.
- ¹³⁴ Para (b) amended by Interpretation Act 2015 s 55.
- ¹³⁵ Subs (1) amended by Interpretation Act 2015 s 55.
- ¹³⁶ Subs (1) amended by Interpretation Act 2015 s 55.
- ¹³⁷ S 153 repealed by Interpretation Act 2015 s 105.
- ¹³⁸ S 156 repealed by Interpretation Act 2015 s 105.
- ¹³⁹ Para (b) amended by SD2014/08.
- ¹⁴⁰ Para (a) amended by SD2014/08.

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- ¹⁴¹ Subs (1) amended by SD2014/08.
- ¹⁴² Subs (1) amended by SD2014/08.
- ¹⁴³ Para (b) repealed by Interpretation Act 2015 s 105.
- ¹⁴⁴ Para (c) repealed by Interpretation Act 2015 s 105.
- ¹⁴⁵ Subs (3) repealed by Interpretation Act 2015 s 105.
- ¹⁴⁶ S 162 substituted by Interpretation Act 2015 s 107.
- ¹⁴⁷ Definition of “existing regulated care service” amended by Equality Act 2017 Sch 23.
- ¹⁴⁸ Example amended by Equality Act 2017 Sch 23.
- ¹⁴⁹ S 165 heading amended by Equality Act 2017 Sch 23.
- ¹⁵⁰ Para (a) amended by Equality Act 2017 Sch 23.
- ¹⁵¹ Para (b) amended by Equality Act 2017 Sch 23.
- ¹⁵² Para (a) amended by Equality Act 2017 Sch 23.
- ¹⁵³ Para (b) amended by Equality Act 2017 Sch 23.
- ¹⁵⁴ Subs (3) repealed by Equality Act 2017 Sch 24.
- ¹⁵⁵ Subs (3) amended by SD2014/08.
- ¹⁵⁶ Subs (4) amended by SD2014/08.
- ¹⁵⁷ Subs (2) amended by SD2014/08.
- ¹⁵⁸ Subs (3) amended by SD2014/08.
- ¹⁵⁹ Subs (4) amended by SD2014/08.
- ¹⁶⁰ Subs (1) amended by SD2014/08.
- ¹⁶¹ Subs (1) amended by Interpretation Act 2015 s 55.
- ¹⁶² Para (a) amended by SD2014/08.
- ¹⁶³ Para (b) amended by SD2014/08.
- ¹⁶⁴ Subs (3) amended by SD2014/08.
- ¹⁶⁵ Subs (4) amended by SD2014/08.
- ¹⁶⁶ Subs (1) amended by SD2014/08.
- ¹⁶⁷ Subs (2) amended by SD2014/08.
- ¹⁶⁸ Subs (1) amended by SD2014/08.
- ¹⁶⁹ S 183 expired on commencement of appeal rules on 01/03/2015 [SD2015/0010].
- ¹⁷⁰ S 185 amended by SD2014/08.
- ¹⁷¹ Division 5 repealed by Interpretation Act 2015 s 105.
- ¹⁷² Item (i) amended by SD2014/08.
- ¹⁷³ Definition of “children’s home” amended by Equality Act 2017 Sch 23.
- ¹⁷⁴ Definition of “commence” repealed by Interpretation Act 2015 s 105.
- ¹⁷⁵ Definition of “DHSC”, previously “DSC”, amended by SD2014/08.
- ¹⁷⁶ Definition of “DHSC’s proposal”, previously “DSC’s proposal” amended by SD2014/08.
- ¹⁷⁷ Definition of “enactment” repealed by Interpretation Act 2015 s 105.
- ¹⁷⁸ Definition of “maximum penalty” repealed by Interpretation Act 2015 s 105.
- ¹⁷⁹ Definition of “monitoring function” amended by SD2014/08.
- ¹⁸⁰ Definition of “personal representative” repealed by Interpretation Act 2015 s 105.
- ¹⁸¹ Definition of “prescribed” amended by SD2014/08.

¹⁸² Definition of “register” amended by SD2014/08.

¹⁸³ Definition of “regulations” amended by SD2014/08.

¹⁸⁴ Definition of “see” repealed by Interpretation Act 2015 s 105.