



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

The health service: overview

1 Secretary of State's duty to promote comprehensive health service

For section 1 of the National Health Service Act 2006 (Secretary of State's duty to promote health service) substitute—

“1 Secretary of State's duty to promote comprehensive health service

- (1) The Secretary of State must continue the promotion in England of a comprehensive health service designed to secure improvement—
 - (a) in the physical and mental health of the people of England, and
 - (b) in the prevention, diagnosis and treatment of physical and mental illness.
- (2) For that purpose, the Secretary of State must exercise the functions conferred by this Act so as to secure that services are provided in accordance with this Act.
- (3) The Secretary of State retains ministerial responsibility to Parliament for the provision of the health service in England.
- (4) The services provided as part of the health service in England must be free of charge except in so far as the making and recovery of charges is expressly provided for by or under any enactment, whenever passed.”

2 The Secretary of State's duty as to improvement in quality of services

After section 1 of the National Health Service Act 2006 insert—

“1A Duty as to improvement in quality of services

- (1) The Secretary of State must exercise the functions of the Secretary of State in relation to the health service with a view to securing continuous improvement in the quality of services provided to individuals for or in connection with—
 - (a) the prevention, diagnosis or treatment of illness, or
 - (b) the protection or improvement of public health.
- (2) In discharging the duty under subsection (1) the Secretary of State must, in particular, act with a view to securing continuous improvement in the outcomes that are achieved from the provision of the services.
- (3) The outcomes relevant for the purposes of subsection (2) include, in particular, outcomes which show—
 - (a) the effectiveness of the services,
 - (b) the safety of the services, and
 - (c) the quality of the experience undergone by patients.
- (4) In discharging the duty under subsection (1), the Secretary of State must have regard to the quality standards prepared by NICE under section 234 of the Health and Social Care Act 2012.”

3 The Secretary of State’s duty as to the NHS Constitution

After section 1A of the National Health Service Act 2006 insert—

“1B Duty as to the NHS Constitution

- (1) In exercising functions in relation to the health service, the Secretary of State must have regard to the NHS Constitution.
- (2) In this Act, “NHS Constitution” has the same meaning as in Chapter 1 of Part 1 of the Health Act 2009 (see section 1 of that Act).”

4 The Secretary of State’s duty as to reducing inequalities

After section

1B

of the National Health Service Act 2006 insert—

“1C Duty as to reducing inequalities

In exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits that they can obtain from the health service.”

5 The Secretary of State’s duty as to promoting autonomy

After section

1C

of the National Health Service Act 2006 insert—

“1D Duty as to promoting autonomy

- (1) In exercising functions in relation to the health service, the Secretary of State must have regard to the desirability of securing, so far as consistent with the interests of the health service—
 - (a) that any other person exercising functions in relation to the health service or providing services for its purposes is free to exercise those functions or provide those services in the manner that it considers most appropriate, and
 - (b) that unnecessary burdens are not imposed on any such person.
- (2) If, in the case of any exercise of functions, the Secretary of State considers that there is a conflict between the matters mentioned in subsection [\(1\)](#) and the discharge by the Secretary of State of the duties under section 1, the Secretary of State must give priority to the duties under that section.”

6 The Secretary of State’s duty as to research

After section
[1D](#)
of the National Health Service Act 2006 insert—

“1E Duty as to research

- In exercising functions in relation to the health service, the Secretary of State must promote—
- (a) research on matters relevant to the health service, and
 - (b) the use in the health service of evidence obtained from research.”

7 The Secretary of State’s duty as to education and training

After section
[1E](#)
of the National Health Service Act 2006 insert—

“1F Duty as to education and training

- (1) The Secretary of State must exercise the functions of the Secretary of State under any relevant enactment so as to secure that there is an effective system for the planning and delivery of education and training to persons who are employed, or who are considering becoming employed, in an activity which involves or is connected with the provision of services as part of the health service in England.
- (2) Any arrangements made with a person under this Act for the provision of services as part of that health service must include arrangements for securing that the person co-operates with the Secretary of State in the discharge of the duty under subsection [\(1\)](#)

(or, where a Special Health Authority is discharging that duty by virtue of a direction under section 7, with the Special Health Authority).

(3) In subsection

(1)

, “relevant enactment” means—

- (a) section 63 of the Health Services and Public Health Act 1968,
- (b) this Act,
- (c) the Health and Social Care Act 2008,
- (d) the Health Act 2009, and
- (e) the Health and Social Care Act 2012.”

8 Secretary of State’s duty as to reporting on and reviewing treatment of providers

After section

1F

of the National Health Service Act 2006 insert—

“1G Secretary of State’s duty as to reporting on and reviewing treatment of providers

- (1) The Secretary of State must, within one year of the passing of the Health and Social Care Act 2012, lay a report before Parliament on the treatment of NHS health care providers as respects any matter, including taxation, which might affect their ability to provide health care services for the purposes of the NHS or the reward available to them for doing so.
- (2) The report must include recommendations as to how any differences in the treatment of NHS health care providers identified in the report could be addressed.
- (3) The Secretary of State must keep under review the treatment of NHS health care providers as respects any such matter as is mentioned in subsection (1).
- (4) In this section—
 - (a) “NHS health care providers” means persons providing or intending to provide health care services for the purposes of the NHS, and
 - (b) “health care services for the purposes of the NHS” has the same meaning as in Part 3 of the Health and Social Care Act 2012.”

9 The NHS Commissioning Board

(1) After section

1G

of the National Health Service Act 2006 insert—

“Role of the Board in the health service in England

1H The National Health Service Commissioning Board and its general functions

- (1) There is to be a body corporate known as the National Health Service Commissioning Board (“the Board”).
 - (2) The Board is subject to the duty under section 1(1) concurrently with the Secretary of State except in relation to the part of the health service that is provided in pursuance of the public health functions of the Secretary of State or local authorities.
 - (3) For the purpose of discharging that duty, the Board—
 - (a) has the function of arranging for the provision of services for the purposes of the health service in England in accordance with this Act, and
 - (b) must exercise the functions conferred on it by this Act in relation to clinical commissioning groups so as to secure that services are provided for those purposes in accordance with this Act.
 - (4) Schedule A1 makes further provision about the Board.
 - (5) In this Act—
 - (a) any reference to the public health functions of the Secretary of State is a reference to the functions of the Secretary of State under sections 2A and 2B and paragraphs 7C, 8 and 12 of Schedule 1, and
 - (b) any reference to the public health functions of local authorities is a reference to the functions of local authorities under sections 2B and 111 and paragraphs 1 to 7B and 13 of Schedule 1.”
- (2) Before Schedule 1 to that Act, insert the Schedule set out in Schedule 1 to this Act.

10 Clinical commissioning groups

After section
[1H](#)
of the National Health Service Act 2006 insert—

“Role of clinical commissioning groups in the health service in England

1I Clinical commissioning groups and their general functions

- (1) There are to be bodies corporate known as clinical commissioning groups established in accordance with Chapter A2 of Part 2.
- (2) Each clinical commissioning group has the function of arranging for the provision of services for the purposes of the health service in England in accordance with this Act.”