

# Health and Social Care Act 2012

### **2012 CHAPTER 7**

#### PART 8

THE NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELLENCE

Functions: other

### 242 NICE's charter

- (1) Regulations may make provision requiring NICE to publish a document explaining the functions of NICE and how NICE intends to exercise them (referred to in this section as "the charter").
- (2) The regulations may, in particular, make provision about—
  - (a) the information to be provided in the charter,
  - (b) the timing of preparation of the charter,
  - (c) review and revision by NICE of the charter, and
  - (d) the manner in which the charter must or may be published.

## 243 Additional functions

- (1) NICE may do any of the following—
  - (a) acquire, produce, manufacture and supply goods,
  - (b) acquire land by agreement and manage and deal with land,
  - (c) supply accommodation to any person,
  - (d) supply services to any person and provide new services,
  - (e) provide instruction for any person, and
  - (f) develop and exploit ideas and exploit intellectual property.
- (2) But NICE may exercise a power under subsection (1) only—
  - (a) if doing so is connected with the provision of health care or social care, and

Status: This is the original version (as it was originally enacted).

- (b) to the extent that its exercise does not to any significant extent interfere with the performance by NICE of any function it has under or by virtue of any other provision of this Part.
- (3) NICE may—
  - (a) charge for anything it does in the exercise of a power under subsection (1), and
  - (b) calculate any such charge on the basis that it considers to be the appropriate commercial basis.

# 244 Arrangements with other bodies

- (1) NICE may arrange with any person or body to provide, or assist in providing, any service which NICE is required or authorised to provide by virtue of this Part.
- (2) The power under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to NICE.

## Failure by NICE to discharge any of its functions

- (1) The Secretary of State may give a direction to NICE if the Secretary of State considers that—
  - (a) NICE—
    - (i) is failing or has failed to discharge any of its functions, or
    - (ii) is failing or has failed properly to discharge any of its functions, and
  - (b) the failure is significant.
- (2) A direction under subsection (1) may direct NICE to discharge such of those functions, and in such manner and within such period or periods, as may be specified in the direction.
- (3) If NICE fails to comply with a direction under subsection (1), the Secretary of State may—
  - (a) discharge the functions to which it relates, or
  - (b) make arrangements for any other person to discharge them on the Secretary of State's behalf.
- (4) Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State must publish reasons for doing so.
- (5) For the purposes of this section, a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred.

#### 246 Protection from personal liability

- (1) Section 265 of the Public Health Act 1875 (which relates to the protection of members and officers of certain authorities from personal liability) has effect as if there were included in the authorities referred to in that section a reference to NICE.
- (2) In its application to NICE as provided for by subsection (1), section 265 of that Act has effect as if any reference in that section to the Public Health Act 1875 were a reference to this Act.