Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Functions relating to mental health matters

40  After-care

(1) Section 117 of the Mental Health Act 1983 (after-care) is amended as follows.

(2) In subsection (2)—

(a) after “duty of the” insert “clinical commissioning group or”,
(b) omit “Primary Care Trust or” in each place it appears, and
(c) after “such time as the” insert “clinical commissioning group or”.

(3) After subsection (2C) insert—

“(2D) Subsection (2), in its application to the clinical commissioning group, has effect as if for “to provide” there were substituted “to arrange for the provision of”.

(2E) The Secretary of State may by regulations provide that the duty imposed on the clinical commissioning group by subsection (2) is, in the circumstances or to the extent prescribed by the regulations, to be imposed instead on another clinical commissioning group or the National Health Service Commissioning Board.

(2F) Where regulations under subsection (2E) provide that the duty imposed by subsection (2) is to be imposed on the National Health Service Commissioning Board, subsection (2D) has effect as if the reference to the clinical commissioning group were a reference to the National Health Service Commissioning Board.
(2G) Section 272(7) and (8) of the National Health Service Act 2006 applies to the power to make regulations under subsection (2E) as it applies to a power to make regulations under that Act.”

(4) In subsection (3)—
(a) after “section “the” insert “clinical commissioning group or”;
(b) omit “Primary Care trust or” in each place it appears, and
(c) after “means the”, in the first place it appears, insert “clinical commissioning group or”.

(5) In section 275 of the National Health Service Act 2006 (interpretation) after subsection (4) insert—
“(5) In each of the following, the reference to section 3 includes a reference to section 117 of the Mental Health Act 1983 (after-care)—
(a) in section 223K(8), paragraph (a) of the definition of “relevant services”,
(b) in section 244(3), paragraph (a)(i) of the definition of “relevant health service provider”,
(c) in section 252A(10), the definition of “service arrangements”,
(d) section 253(1A)(d)(ii).”

(6) In section 48 of the Health and Social Care Act 2008 (special reviews and investigations), in subsection (2)(ba), after “the National Health Service Act 2006” insert “or section 117 of the Mental Health Act 1983 (after-care)”.

(7) In section 97 of that Act (general interpretation of Part 1), in subsection (2A), after “section 7A of that Act)” insert “or section 117 of the Mental Health Act 1983 (after-care)”.

(8) In consequence of the repeals made by subsections (2)(b) and (4)(b), omit paragraph 47 of Schedule 2 to the National Health Service Reform and Health Care Professions Act 2002.

**Commencement Information**

| S. 40 | partly in force; s. 40 in force for specified purposes at Royal Assent, see s. 306(1)(d) |
Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Social Care Act 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to:
- s. 40 coming into force by S.I. 2013/160 art. 2(2)
- s. 40(1)-(4)(8) coming into force by S.I. 2012/2657 art. 2(4)
- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by S.I. 2012/2657 art. 15

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- Pt. 9 Ch. 1A inserted by 2015 c. 28 s. 2
- s. 58(6)(c) inserted by 2013 c. 32 Sch. 12 para. 103
- s. 73(3A) inserted by S.I. 2014/892 Sch. 1 para. 189(5)
- s. 80(3) inserted by S.I. 2014/892 Sch. 1 para. 192(3)
- s. 101(4A) inserted by 2013 c. 24 Sch. 6 para. 128(4)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by S.I. 2019/1245 reg. 28
- s. 105(3A)(3B) inserted by 2013 c. 24 Sch. 14 para. 21
- s. 106(3A)(3B) inserted by 2013 c. 24 Sch. 14 para. 22
- s. 111(2A) inserted by 2014 c. 23 s. 83(2)
- s. 120(5A) inserted by 2013 c. 24 Sch. 6 para. 131(4)
- s. 142(4A) inserted by 2013 c. 24 Sch. 6 para. 135(3)
- s. 251A(7)(a) words substituted by 2018 c. 12 Sch. 19 para. 173(2)
- s. 251A(9) inserted by 2018 c. 12 Sch. 19 para. 173(3)
- s. 251B inserted by 2015 c. 28 s. 3
- s. 251B(5)(a) words substituted by 2018 c. 12 Sch. 19 para. 174(2)
- s. 251B(7) inserted by 2018 c. 12 Sch. 19 para. 174(3)
- s. 251C inserted by 2015 c. 28 s. 4
- s. 251C modified (temp.) by S.I. 2015/1438 reg. 4
- s. 253(1)(ca) inserted by 2014 c. 23 s. 122(2)
- s. 261(1A) inserted by 2014 c. 23 s. 122(3)
- s. 262A inserted by 2014 c. 23 s. 122(4)
- s. 290(3)(ca) inserted by 2014 c. 23 Sch. 5 para. 15(3)
- Sch. 8 para. 11(2A) inserted by 2013 c. 24 Sch. 15 para. 49
- Sch. 10 para. 10(2A) inserted by S.I. 2014/892 Sch. 1 para. 195(4)
- Sch. 10 para. 10(3)(aa) inserted by S.I. 2014/892 Sch. 1 para. 195(5)
- Sch. 10 para. 10(2A)(b) words substituted by S.I. 2019/93, Sch. 1 para. 13(4) (as substituted) by S.I. 2019/1245 reg. 28
- Sch. 14 para. 16(1) Sch. 14 para. 16 renumbered as Sch. 14 para. 16(1) by 2014 c. 23 s. 120(18)(e)
- Sch. 14 para. 24(2A) inserted by 2014 c. 23 s. 84(8)
- Sch. 14 para. 4A4B inserted by 2014 c. 23 s. 120(18)(a)
- Sch. 14 para. 15(8) inserted by 2014 c. 23 s. 120(18)(d)
- Sch. 14 para. 16(2)-(4) inserted by 2014 c. 23 s. 120(18)(e)
- Sch. 14 para. 17(4A) inserted by 2014 c. 23 s. 120(18)(g)
- Sch. 14 para. 24(2A) inserted by 2014 c. 23 s. 120(18)(h)
- Sch. 14 para. 24A inserted by 2014 c. 23 s. 120(18)(i)
- Sch. 14 para. 35(e) and word inserted by 2014 c. 23 s. 120(18)(j)