National Health Service Act 2006

2006 CHAPTER 41

PART 1

PROMOTION AND PROVISION OF THE HEALTH SERVICE IN ENGLAND

The Secretary of State and the health service in England

[F1 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.]

Textual Amendments

F1 S. 1 substituted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 1**, 306(4); S.I. 2012/1831, art. 2(2); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Changes to legislation: *National Health Service Act 2006, Part 1 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F2 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.**]**

Textual Amendments

F2 S. 1A inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 2**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F3 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).**]**

Textual Amendments

F3 S. 1B inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 3**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F4 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.**]**

Textual Amendments

F4 S. 1C inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 4**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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[F5]1D Duty as to promoting autonomy

. . . . . .

Textual Amendments

F5 S. 1D omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 73(1)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[[F6]1E Duty as to research

In exercising functions in relation to the health service, the Secretary of State must **[**[F7]facilitate or otherwise**]** promote—

(a) research on matters relevant to the health service, and

(b) the use in the health service of evidence obtained from research.**]**

Textual Amendments

F6 S. 1E inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 6**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F7 Words in s. 1E inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 40**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[[F8]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 **[**[F9]and **[**[F10]NHS England**]]** 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.**]**

Textual Amendments

F8 S. 1F inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 7**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F9 Words in s. 1F(2) inserted (1.4.2015) by Care Act 2014 (c. 23), **ss. 97(4)(a)**, 127(1); S.I. 2014/3186, **art. 2(a)**

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F10 Words in s. 1F(2) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(2)** (with reg. 7)

Modifications etc. (not altering text)

C1 S. 1F(1): power to apply conferred (1.4.2015) by Care Act 2014 (c. 23), **ss. 97(2)**, 127(1); S.I. 2014/3186, **art. 2(a)**

[F11 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.**]**

Textual Amendments

F11 S. 1G inserted (1.6.2012) by Health and Social Care Act 2012 (c. 7), **ss. 8**, 306(4); S.I. 2012/1319, art. 2(2)

[F12 1GA Secretary of State's duty to report on workforce systems

(1) The Secretary of State must, at least once every five years, publish a report describing the system in place for assessing and meeting the workforce needs of the health service in England.

(2) NHS England F13...must assist in the preparation of a report under this section, if requested to do so by the Secretary of State.**]**

Textual Amendments

F12 S. 1GA inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 41**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F13 Words in s. 1GA(2) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(3)** (with reg. 7)

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[F14 Role of [F15 NHS England] in the health service in England

Textual Amendments

F14 S. 1H and cross-heading inserted (1.10.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 9(1)**, 306(4) (with Sch. 6 para. 2); S.I. 2012/1831, art. 2(2) (with art. 3(1)); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

1H [F15 NHS England] and its general functions

(1) There is to be a body corporate known as **[F15** NHS England**]**.

(2) **[F15** NHS England**]** 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, **[F15** NHS England**]**—

(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 **[F16** integrated care boards**][F17**, NHS trusts established under section 25 and NHS foundation trusts**]** so as to secure that services are provided for those purposes in accordance with this Act.

(4) Schedule A1 makes further provision about **[F15** NHS England**]**.

(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.**]**

Textual Amendments

F16 Words in s. 1H(3)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 87**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F17 Words in s. 1H(3)(b) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 37**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F18 Role of integrated care boards in the health service in England

Textual Amendments

F18 S. 1I and cross-heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 18**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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1I General functions of integrated care boards

An integrated care board established under Chapter A3 of Part 2 has the function of arranging for the provision of services for the purposes of the health service in England in accordance with this Act.**]**

[F19 General power]

Textual Amendments

F19 S. 2 cross-heading substituted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 1(2)**; S.I. 2012/1831, art. 2(2) (with art. 10) (as amended (22.10.2012) by S.I. 2012/2657, art. 15); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F20 2. General power

(1) The Secretary of State may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any function conferred on the Secretary of State by this Act.

(2) NHS England or an integrated care board may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.**]**

Textual Amendments

F20 S. 2 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 10**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F21 Provision for protection or improvement of public health

Textual Amendments

F21 S. 2A and cross-heading inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 11**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

2A Secretary of State's duty as to protection of public health

(1) The Secretary of State must take such steps as the Secretary of State considers appropriate for the purpose of protecting the public in England from disease or other dangers to health.

(2) The steps that may be taken under subsection (1) include—

(a) the conduct of research or such other steps as the Secretary of State considers appropriate for advancing knowledge and understanding;

(b) providing microbiological or other technical services (whether in laboratories or otherwise);

(c) providing vaccination, immunisation or screening services;

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(d) providing other services or facilities for the prevention, diagnosis or treatment of illness;
(e) providing training;
(f) providing information and advice;
(g) making available the services of any person or any facilities.

(3) Subsection (4) applies in relation to any function under this section which relates to—
(a) the protection of the public from ionising or non-ionising radiation, and
(b) a matter in respect of which **[**[F22]a relevant body**]** has a function.

(4) In exercising the function, the Secretary of State must—
(a) consult the **[**[F23]relevant body**]**, and
(b) have regard to its policies.**]**

[[F24](5) For the purposes of subsections (3) and (4), each of the following is a relevant body—
(a) the Health and Safety Executive;
(b) the Office for Nuclear Regulation.**]**

Textual Amendments

F22 Words in s. 2A(3)(b) substituted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 91(a)**; S.I. 2014/251, art. 4

F23 Words in s. 2A(4)(a) substituted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 91(b)**; S.I. 2014/251, art. 4

F24 S. 2A(5) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 91(c)**; S.I. 2014/251, art. 4

[[F25]**2B Functions of local authorities and Secretary of State as to improvement of public health**

(1) Each local authority must take such steps as it considers appropriate for improving the health of the people in its area.

(2) The Secretary of State may take such steps as the Secretary of State considers appropriate for improving the health of the people of England.

(3) The steps that may be taken under subsection (1) or (2) include—
(a) providing information and advice;
(b) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
(c) providing services or facilities for the prevention, diagnosis or treatment of illness;
(d) providing financial incentives to encourage individuals to adopt healthier lifestyles;
(e) providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
(f) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;
(g) making available the services of any person or any facilities.

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(4) The steps that may be taken under subsection (1) also include providing grants or loans (on such terms as the local authority considers appropriate).

(5) In this section, "local authority" means—

(a) a county council in England;

(b) a district council in England, other than a council for a district in a county for which there is a county council;

(c) a London borough council;

(d) the Council of the Isles of Scilly;

(e) the Common Council of the City of London.**]**

Textual Amendments

F25 S. 2B inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 12**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

C2 S. 2B(1) functions made exercisable concurrently (30.11.2017) by The Greater Manchester Combined Authority (Public Health Functions) Order 2017 (S.I. 2017/1180), arts. 1, **3**

C3 S. 2B(1): functions made exercisable concurrently (28.2.2024) by The East Midlands Combined County Authority Regulations 2024 (S.I. 2024/232), regs. 1(2), **22**

[F26 Arrangements for the provision of certain health services]

Textual Amendments

F26 S. 3 cross-heading substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 13(7)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F27 3. Duties of integrated care boards as to commissioning certain health services

(1) An integrated care board must arrange for the provision of the following to such extent as it considers necessary to meet the reasonable requirements of the people for whom it has responsibility—

(a) hospital accommodation,

(b) other accommodation for the purpose of any service provided under this Act,

(c) medical services other than primary medical services (for primary medical services, see Part 4),

(d) dental services other than primary dental services (for primary dental services, see Part 5),

(e) ophthalmic services other than primary ophthalmic services (for primary ophthalmic services, see Part 6),

(f) nursing and ambulance services,

(g) such other services or facilities for the care of pregnant women, women who are breastfeeding and young children as the board considers are appropriate as part of the health service,

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(h) such other services or facilities for palliative care as the board considers are appropriate as part of the health service,

(i) such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as the board considers are appropriate as part of the health service, and

(j) such other services or facilities as are required for the diagnosis and treatment of illness.

(2) For the purposes of this section an integrated care board has responsibility for—

(a) the group of people for whom it has core responsibility (see section 14Z31), and

(b) such other people as may be prescribed (whether generally or in relation to a prescribed service or facility).

(3) The duty imposed on an integrated care board by subsection (1) to arrange for the provision of services or facilities does not apply to the extent that—

(a) NHS England has a duty to arrange for their provision;

(b) another integrated care board has a duty to arrange for their provision by virtue of subsection (2)(b).

(4) In exercising its functions under this section, an integrated care board must act consistently with—

(a) the discharge by the Secretary of State and NHS England of their duty under section 1(1) (duty to promote a comprehensive health service), and

(b) the objectives and requirements for the time being specified in the mandate published under section 13A.

Textual Amendments

F27 Ss. 3, 3A substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 21**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

3A. Power of integrated care boards to commission certain health services

(1) Each integrated care board may arrange for the provision of such services or facilities as it considers appropriate for the purposes of the health service that relate to securing improvement—

(a) in the physical and mental health of the people for whom it has responsibility, or

(b) in the prevention, diagnosis and treatment of illness in those people.

(2) For the purposes of this section an integrated care board has responsibility for—

(a) the group of people for whom it has core responsibility (see section 14Z31), and

(b) such other people as may be prescribed (whether generally or in relation to a prescribed service or facility).

(3) An integrated care board may not arrange for the provision of a service or facility under subsection (1) if NHS England has a duty to arrange for its provision by virtue of section 3B or 4.

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(4) In exercising its functions under this section, an integrated care board must act consistently with—
  (a) the discharge by the Secretary of State and NHS England of their duty under section 1(1) (duty to promote a comprehensive health service), and
  (b) the objectives and requirements for the time being specified in the mandate published under section 13A.**]**

Textual Amendments

F27 Ss. 3, 3A substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 21**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

[F28 3B Secretary of State's power to require [F29 NHS England] to commission services

(1) Regulations may require **[F15** NHS England**]** to arrange, to such extent as it considers necessary to meet all reasonable requirements, for the provision as part of the health service of—
  (a) dental services of a prescribed description;
  (b) services or facilities for members of the armed forces or their families;
  (c) services or facilities for persons who are detained in a prison or in other accommodation of a prescribed description;
  (d) such other services or facilities as may be prescribed.

[F30 (2) A service or facility may be prescribed under subsection (1)(d) only if the Secretary of State considers that it would be appropriate for NHS England to arrange for the provision of that service or facility (whether by NHS England making arrangements itself or by giving directions under section 13YB or making arrangements under section 65Z5).**]**

(3) In deciding whether it would be so appropriate, the Secretary of State must have regard to—
  (a) the number of individuals who require the provision of the service or facility;
  (b) the cost of providing the service or facility;
  (c) the number of persons able to provide the service or facility;
  F31 (d) . . . . . .

(4) Before deciding whether to make regulations under this section, the Secretary of State must—
  (a) obtain advice appropriate for that purpose, and
  (b) consult **[F15** NHS England**]**.

F32 **[** (4A) If the Secretary of State refuses a request by NHS England to revoke provision made by regulations under subsection (1)(d) prescribing a service or facility, the Secretary of State must explain why to NHS England.**]**

(5) The reference in subsection (1)(b) to members of the armed forces is a reference to persons who are members of—
  (a) the regular forces within the meaning of the Armed Forces Act 2006, or
  (b) the reserve forces within the meaning of that Act.**]**

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Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F28 S. 3B inserted (27.3.2012 for specified purposes, 1.2.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 15**, 306(1)(d)(4); S.I. 2012/2657, art. 2(4)

F29 Words in s. 3B heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 7**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F30 S. 3B(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 2(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F31 S. 3B(3)(d) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 2(3)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F32 S. 3B(4A) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 2(4)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Modifications etc. (not altering text)

C4 S. 3B(2) modified (temp.) (1.7.2022) by The Health and Care Act 2022 (Commencement No. 2 and Transitional and Saving Provision) Regulations 2022 (S.I. 2022/734), **reg. 5** (with regs. 13, 29, 30)

4 High security psychiatric services

(1) **[**[F33]**[**[F15]NHS England**]** must arrange for the provision of**]** hospital accommodation and services for persons who—

(a) are liable to be detained under the Mental Health Act 1983 (c. 20), and

(b) in the opinion of the Secretary of State require treatment under conditions of high security on account of their dangerous, violent or criminal propensities.

(2) The hospital accommodation and services mentioned in subsection (1) are referred to in this section and paragraph 15 of Schedule 4 (NHS trusts) as "high security psychiatric services".

(3) High security psychiatric services may be provided **[**[F34]—

(a)**]** only at hospital premises at which services are provided only for the persons mentioned in subsection (1)**[**[F35], and

(b) only by a person approved by the Secretary of State for the purposes of this subsection.**]**

[[F36](3A) The Secretary of State may—

(a) give directions to a person who provides high security psychiatric services about the provision by that person of those services;

(b) give directions to **[**[F15]NHS England**]** about the exercise of its functions in relation to high security psychiatric services.**]**

(4) "Hospital premises" means—

(a) a hospital, or

(b) any part of a hospital which is treated as a separate unit.

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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F33 Words in s. 4(1) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 16(2)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F34 Words in s. 4(3) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 16(3)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F35 S. 4(3)(b) and word inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 16(3)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F36 S. 4(3A) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 16(4)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

5 Other services

Schedule 1 makes further provision **[**[F37]about the provision of services for the purposes of the health service in England**]**.

Textual Amendments

F37 Words in s. 5 substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 17(1)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Provision of services otherwise than in England

6 Performance of functions outside England

[[F38](1) Where the Secretary of State has a duty or power to provide anything under section 2A or 2B or Schedule 1, that thing may be provided outside England.**]**

[[F39](1A) Where **[**[F40]an integrated care board**]** or **[**[F15]NHS England**]** has a duty or power to arrange for the provision of anything under section 3, 3A, 3B or 4 or Schedule 1, it may arrange for that thing to be provided outside England.**]**

(2) **[**[F41]The functions of the Secretary of State, **[**[F15]NHS England**]** and **[**[F42]integrated care boards**]]** may be performed outside England and Wales, in so far as they relate to—

(a) holidays for patients,

(b) the transfer of patients to or from Scotland, Northern Ireland, the Isle of Man or the Channel Islands, or

(c) the return of patients who have received treatment in England and Wales, to countries or territories outside the British Islands (including for this purpose the Republic of Ireland).

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F38 S. 6(1) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 2(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F39 S. 6(1A) inserted (1.2.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 2(3)**; S.I. 2012/2657, art. 2(4)

F40 Words in s. 6(1A) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 88(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F41 Words in s. 6(2) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 2(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F42 Words in s. 6(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 88(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F43]6A. Reimbursement of cost of services provided in another EEA state

. . . . . .

Textual Amendments

F43 S. 6A omitted (31.12.2020) by virtue of The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (S.I. 2019/777), regs. 1(1), **3(a)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, regs. 10-12);. 2020 c. 1, Sch. 5 para. 1(1)

[F44]6B. Prior authorisation for the purposes of section 6A

. . . . . .

Textual Amendments

F44 S. 6B omitted (31.12.2020) by virtue of The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (S.I. 2019/777), regs. 1(1), **3(b)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, regs. 10-12);. 2020 c. 1, Sch. 5 para. 1(1)

[F45]6BA Reimbursement of cost of services provided in another EEA state where expenditure incurred on or after 25 October 2013.

. . . . . .

Textual Amendments

F45 S. 6BA omitted (31.12.2020) by virtue of The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (S.I. 2019/777), regs. 1(1), **3(c)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, regs. 10-12);. 2020 c. 1, Sch. 5 para. 1(1)

[F46]6BB Prior authorisation for the purposes of section 6BA

. . . . . .

Textual Amendments

F46 S. 6BB omitted (31.12.2020) by virtue of The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (S.I. 2019/777), regs. 1(1), **3(d)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, regs. 10-12);. 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: *National Health Service Act 2006, Part 1 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F47 Regulations as to the exercise of functions

Textual Amendments

F47 S. 6C and cross-heading inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 18(1)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

6C Regulations as to the exercise by local authorities of certain public health functions

(1) Regulations may require a local authority to exercise any of the public health functions of the Secretary of State (so far as relating to the health of the public in the authority's area) by taking such steps as may be prescribed.

(2) Regulations may require a local authority to exercise its public health functions by taking such steps as may be prescribed.

(3) Where regulations under subsection (1) require a local authority to exercise any of the public health functions of the Secretary of State, the regulations may also authorise or require the local authority to exercise any prescribed functions of the Secretary of State that are exercisable in connection with those functions (including the powers conferred by section 12).

(4) The making of regulations under subsection (1) does not prevent the Secretary of State from taking any step that a local authority is required to take under the regulations.

(5) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a local authority of any of its functions under regulations under subsection (1) are enforceable by or against the local authority (and no other person).

(6) In this section, "local authority" has the same meaning as in section 2B.**]**

Modifications etc. (not altering text)

C5 S. 6C(2) applied (with modifications) (30.11.2017) by The Greater Manchester Combined Authority (Public Health Functions) Order 2017 (S.I. 2017/1180), arts. 1, **4**

F48 6D Regulations relating to EU obligations

. . . . . .

Textual Amendments

F48 S. 6D omitted (31.12.2020) by virtue of The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (S.I. 2019/777), regs. 1(1), **3(e)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, regs. 10-12);. 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: *National Health Service Act 2006, Part 1 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F49 6E Regulations as to the exercise of functions by [F15 NHS England] or [F50 integrated care boards]

(1) Regulations [F51 must] impose requirements (to be known as "standing rules") in accordance with this section on [F15 NHS England][F52 and] on [F53 integrated care boards].

F54 [(1A) The regulations must make provision as to the arrangements that NHS England and integrated care boards must make, in exercising their commissioning functions, for enabling persons to whom specified treatments or other specified services are to be provided to make choices with respect to specified aspects of them.

(1B) The regulations may make other provision for the purpose of securing that, in exercising their commissioning functions, NHS England and integrated care boards protect and promote the rights of persons to make choices in relation to treatments or other services, where those rights—

(a) arise by virtue of regulations under subsection (1A), or

(b) are described in the NHS Constitution.]

(2) The regulations may, in relation to the commissioning functions of [F15 NHS England] or [F55 integrated care boards], make provision—

(a) requiring [F15 NHS England] or [F55 integrated care boards] to arrange for specified treatments or other specified services to be provided or to be provided in a specified manner or within a specified period;

(b) as to the arrangements that [F15 NHS England] or [F55 integrated care boards] must make for the purpose of making decisions as to—

(i) the treatments or other services that are to be provided;

(ii) the manner in which or period within which specified treatments or other specified services are to be provided;

(iii) the persons to whom specified treatments or other specified services are to be provided;

F56 (c) . . . . . .

(3) Regulations by virtue of paragraph (b) of subsection (2) may, in particular, make provision—

(a) requiring [F15 NHS England] or [F57 an integrated care board] to take specified steps before making decisions as to the matters mentioned in that paragraph;

(b) as to reviews of, or appeals from, such decisions.

(4) The regulations may—

(a) specify matters for which provision must be made in commissioning contracts entered into by [F15 NHS England] or [F58 integrated care boards];

(b) require [F15 NHS England] to draft terms and conditions making provision for those matters;

(c) require [F15 NHS England] or [F59 integrated care boards] to incorporate the terms and conditions drafted by virtue of paragraph (b) in commissioning contracts entered into by [F15 NHS England] or (as the case may be) [F59 integrated care boards].

(5) The regulations must—

(a) require [F15 NHS England] to draft such terms and conditions as [F15 NHS England] considers are, or might be, appropriate for inclusion in commissioning contracts entered into by [F15 NHS England] or [F60 integrated

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care boards**]** (other than terms and conditions that **[**[F15]NHS England**]** is required to draft by virtue of subsection (4)(a));

(b) authorise **[**[F15]NHS England**]** to require **[**[F61]integrated care boards**]** to incorporate terms and conditions prepared by virtue of paragraph (a) in their commissioning contracts;

(c) authorise **[**[F15]NHS England**]** to draft model commissioning contracts.

(6) The regulations may require **[**[F15]NHS England**]** to consult prescribed persons before exercising any of its functions by virtue of subsection (4)(b) or (5).

(7) The regulations may require **[**[F15]NHS England**]** or **[**[F62]integrated care boards**]** in the exercise of any of its or their functions—

(a) to provide information of a specified description to specified persons in a specified manner;

[F63](b) . . . . . .

(c) to do such other things as the Secretary of State considers necessary for the purposes of the health service.

(8) The regulations may not impose a requirement on only one **[**[F64]integrated care board**]**.

(9) If regulations under this section are made so as to come into force on a day other than 1 April, the Secretary of State must—

(a) publish a statement explaining the reasons for making the regulations so as to come into force on such a day, and

(b) lay the statement before Parliament.

(10) In this section—

(a) "commissioning contracts", in relation to **[**[F15]NHS England**]** or **[**[F65]integrated care boards**]**, means contracts entered into by **[**[F15]NHS England**]** or (as the case may be) **[**[F65]integrated care boards**]** in the exercise of its or their commissioning functions;

(b) "commissioning functions", in relation to **[**[F15]NHS England**]** or **[**[F66]integrated care boards**]**, means the functions of **[**[F15]NHS England**]** or (as the case may be) **[**[F66]integrated care boards**]** in arranging for the provision of services as part of the health service;

(c) "specified" means specified in the regulations.**]**

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F49 S. 6E inserted (27.3.2012 for specified purposes, 1.2.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 20(1)**, 306(1)(d)(4); S.I. 2012/2657, art. 2(4)

F50 Words in s. 6E heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F51 Word in s. 6E(1) substituted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 78(2)(a)(i)**, 186(6); S.I. 2023/1431, reg. 3(a)

F52 Word in s. 6E(1) substituted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 78(2)(a)(ii)**, 186(6); S.I. 2023/1431, reg. 3(a)

F53 Words in s. 6E(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F54 S. 6E(1A)(1B) inserted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 78(2)(b)**, 186(6); S.I. 2023/1431, reg. 3(a)

F55 Words in s. 6E(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F56 S. 6E(2)(c) omitted (1.1.2024) by virtue of Health and Care Act 2022 (c. 31), **ss. 78(2)(c)**, 186(6); S.I. 2023/1431, reg. 3(a) (with reg. 5(1))

F57 Words in s. 6E(3)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F58 Words in s. 6E(4)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F59 Words in s. 6E(4)(c) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F60 Words in s. 6E(5)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F61 Words in s. 6E(5)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F62 Words in s. 6E(7) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F63 S. 6E(7)(b) omitted (31.12.2020) by virtue of The National Health Service (Cross-Border Healthcare and Miscellaneous Amendments etc.) (EU Exit) Regulations 2019 (S.I. 2019/777), regs. 1(1), **3(f)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, regs. 10-12);. 2020 c. 1, Sch. 5 para. 1(1)

F64 Words in s. 6E(8) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(6)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F65 Words in s. 6E(10)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(7)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F66 Words in s. 6E(10)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 89(7)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F67 6F Enforcement of section 6E regulations relating to patient choice

(1) NHS England may investigate whether an integrated care board has failed or is likely to fail to comply with a requirement imposed by regulations under section 6E(1A) or (1B) (a "patient choice requirement").

(2) NHS England may direct an integrated care board—

(a) to put in place measures for the purpose of preventing failures to comply with patient choice requirements or mitigating the effect of such failures, or

(b) where an investigation under subsection (1) has been carried out, to remedy a failure to comply with patient choice requirements.

(3) Where an investigation under subsection (1) is being or has been carried out, NHS England may accept from the integrated care board an undertaking that it will take any action falling within subsection (2)(a) or (b) that is specified in the undertaking, within a period that is so specified.

(4) Where NHS England accepts an undertaking under subsection (3), NHS England may not—

(a) continue to carry out any ongoing investigation under subsection (1) so far as relating to matters to which the undertaking relates, or

(b) give a direction under subsection (2) in relation to those matters,

unless the integrated care board fails to comply with the undertaking.

(5) If an integrated care board from which NHS England has accepted an undertaking under subsection (3) complies partially with the undertaking, NHS England must take

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the partial compliance into account in deciding whether to do something mentioned in subsection (4)(a) or (b).

(6) Schedule 1ZA makes further provision about undertakings.

Textual Amendments

F67 Ss. 6F, 6G inserted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 78(3)**, 186(6); S.I. 2023/1431, reg. 3(a)

6G Guidance relating to patient choice

(1) NHS England must publish guidance about how it intends to exercise powers conferred on it by section 6F and Schedule 1ZA.

(2) Before publishing guidance under this section, NHS England must obtain the approval of the Secretary of State.**]**

Textual Amendments

F67 Ss. 6F, 6G inserted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 78(3)**, 186(6); S.I. 2023/1431, reg. 3(a)

[F68*Functions of Special Health Authorities****]***

Textual Amendments

F68 S. 7 cross-heading and heading substituted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 21(4)**, 306(1)(d)(4); S.I. 2012/1831, art. 2(2)

7 [F68Functions of Special Health Authorities]

[F69(1) The Secretary of State may direct a Special Health Authority to exercise any functions of the Secretary of State or any other person which relate to the health service in England and are specified in the direction.

(1A) Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.

(1B) Before exercising the power in subsection (1) in relation to a function of a person other than the Secretary of State, the Secretary of State must consult that person.

(1C) Regulations may provide that a Special Health Authority specified in the regulations is to have such additional functions in relation to the health service in England as may be so specified.**]**

F70(2) . . . . . .

F70(3) . . . . . .

Changes to legislation: *National Health Service Act 2006, Part 1 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F69 S. 7(1)-(1C) substituted for s. 7(1) (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 21(2)**, 306(1)(d)(4); S.I. 2012/1831, art. 2(2)

F70 S. 7(2)(3) omitted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 21(3)**, 306(1)(d)(4); S.I. 2012/1831, art. 2(2)

Modifications etc. (not altering text)

C6 S. 7(1) modified (temp.) (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 6 paras. 3-6**; S.I. 2012/1831, art. 2(2)

[F71 Exercise of Secretary of State's public health functions]

Textual Amendments

F71 S. 7A and cross-heading inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 22**, 306(4); S.I. 2012/1831, art. 2(2); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F72 7A. Exercise of Secretary of State's public health functions

(1) The Secretary of State may arrange for any of the public health functions of the Secretary of State to be exercised by one or more relevant bodies.

(2) In this section "relevant body" means—
- (a) NHS England,
- (b) an integrated care board,
- (c) a local authority (within the meaning of section 2B),
- (d) a combined authority, or
- [F73 (da) a combined county authority,] or
- (e) such other body as may be prescribed.

(3) Arrangements under this section may be made on such terms as may be agreed between the parties including—
- (a) terms as to payment;
- (b) terms prohibiting or restricting a relevant body from making delegation arrangements in relation to a function that is exercisable by it by virtue of arrangements under this section.

(4) In subsection (3)(b) "delegation arrangements" means arrangements made by a person for the exercise of a function by someone else.

(5) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a relevant body of any function by virtue of this section are enforceable by or against that body (and no other person).

(6) The reference in subsection (1) to the public health functions of the Secretary of State includes any functions of the Secretary of State exercisable in connection with those functions (including the powers conferred by section 12).]

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Textual Amendments

F72 S. 7A substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 42**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F73 S. 7A(2)(da) inserted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 163** (with s. 247)

[F74 7B Directions requiring NHS bodies to exercise public health functions

(1) The Secretary of State may by direction provide for any of the public health functions of the Secretary of State to be exercised by one or more relevant bodies.

(2) In this section "relevant body" means—

(a) NHS England, or

(b) an integrated care board.

(3) A direction under subsection (1) may include provision prohibiting or restricting the relevant body from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.

(4) In subsection (3) "delegation arrangements" means arrangements made by a person for the exercise of a function by someone else.

(5) The Secretary of State may make payments to a relevant body in respect of the exercise by it of a function by virtue of a direction under subsection (1).

(6) The Secretary of State may give directions to an integrated care board as to the exercise by it of any functions by virtue of this section.

(7) For power to give directions to NHS England as to the exercise of functions, see section 13ZC.

(8) As soon as reasonably practicable after giving a direction under subsection (1) or (6), the Secretary of State must publish it.

(9) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a relevant body of any function by virtue of this section are enforceable by or against it (and no other person).

(10) The reference in subsection (1) to the public health functions of the Secretary of State includes any functions of the Secretary of State exercisable in connection with those functions (including the powers conferred by section 12).**]**

Textual Amendments

F74 S. 7B inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 43(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F75 7C Power of direction: investigation functions

(1) The Secretary of State may direct—

(a) NHS England, or

(b) any other public body,

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to exercise any of the investigation functions which are specified in the direction.

(2) A direction under subsection (1) may include provision prohibiting or restricting the body directed from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.

(3) In subsection (2) "delegation arrangements" means arrangements made by a person for the exercise of a function by someone else.

(4) The Secretary of State may make payments to NHS England or any other body in respect of the exercise by it of a function by virtue of a direction under subsection (1).

(5) The Secretary of State may give directions to any body on whom functions are conferred by virtue of subsection (1)(b) as to the exercise of those functions.

(6) For power to give directions to NHS England as to the exercise of functions, see section 13ZC.

(7) As soon as reasonably practicable after giving a direction under subsection (1) or (5), the Secretary of State must publish it.

(8) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by NHS England or any other body of any function by virtue of this section are enforceable by or against it (and no other person).

(9) In this section "the investigation functions" are functions which, immediately before the coming into force of section 36 of the Health and Care Act 2022, were exercised by the Special Health Authority called the National Health Service Trust Development Authority pursuant to—

(a) the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016 made under sections 7 and 8 of the National Health Service Act 2006, or

(b) the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) (Additional Investigatory Functions in respect of Maternity Cases) Directions 2018 made under sections 7 and 8 of the National Health Service Act 2006.

Textual Amendments

F75 Ss. 7C-7E inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 44(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

7D Transfer schemes in connection with a direction under section 7C

(1) The Secretary of State may, in connection with a direction under section 7C, make one or more transfer schemes.

(2) A "transfer scheme" is a scheme for the transfer to NHS England or any other public body of any property, rights or liabilities relating to the discharge of functions pursuant to any directions made by the Secretary of State under the power conferred by section 7C.

(3) The things that may be transferred under a transfer scheme include—

(a) property, rights and liabilities that could not otherwise be transferred;

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(b) property acquired, and rights and liabilities arising, after the making of the scheme;

(c) criminal liabilities.

(4) A transfer scheme may—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by, or on behalf of or in relation to the transferor in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;

(d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;

(e) make provision for the shared ownership or use of property;

(f) make provision which is the same as or similar to the TUPE regulations;

(g) make other consequential, supplementary, incidental or transitional provision.

(5) A transfer scheme may provide—

(a) for modifications by agreement;

(b) for modifications to have effect from the date when the original scheme came into effect.

(6) In subsection (4)(f), "the TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

(7) For the purposes of this section—

(a) references to rights and liabilities include rights and liabilities relating to a contract of employment;

(b) references to the transfer of property include the grant of a lease.

(8) For the purposes of subsection (7)(a)—

(a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and

(b) the terms of the individual's employment in the civil service are to be regarded as constituting the terms of the contract of employment.

Textual Amendments

F75 Ss. 7C-7E inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 44(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

7E Transfer schemes under section 7D: taxation

(1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—

(a) anything transferred under a scheme under section 7D, or

(b) anything done for the purposes of, or in relation to, a transfer under such a scheme.

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(2) The provision which may be made under subsection (1)(a) includes in particular provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;

(b) anything transferred to be treated in a specified way for the purposes of a tax provision;

(c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred.

(3) The provision which may be made under subsection (1)(b) includes in particular provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of or in relation to the transfer;

(b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;

(c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.

(4) In this section references to the transfer of property include the grant of a lease.

(5) In this section—

"relevant tax" means income tax, corporation tax, capital gains tax, value added tax, stamp duty or stamp duty reserve tax;

"tax provision" means a provision of an enactment about a relevant tax.**]**

Textual Amendments

F75 Ss. 7C-7E inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 44(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F76 Directions to certain NHS bodies]

Textual Amendments

F76 S. 8 cross-heading inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 5(3)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

8 Secretary of State's directions to [F77certain] health service bodies

(1) The Secretary of State may give directions to any of the bodies mentioned in subsection (2) about its exercise of any functions.

(2) The bodies are—

F78(a) . . . . . .

F79(b) . . . . . .

(c) NHS trusts, and

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(d) Special Health Authorities.

(3) Nothing in provision made by or under this or any other Act affects the generality of subsection (1).

Textual Amendments

F77 Word in s. 8 heading inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 5(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F78 S. 8(2)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 5(1)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F79 S. 8(2)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 5(1)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

NHS contracts

9 NHS contracts

(1) In this Act, an NHS contract is an arrangement under which one health service body ("the commissioner") arranges for the provision to it by another health service body ("the provider") of goods or services which it reasonably requires for the purposes of its functions.

(2) Section 139(6) (NHS contracts and the provision of local pharmaceutical services under pilot schemes) makes further provision about acting as commissioner for the purposes of subsection (1).

(3) Paragraph 15 of Schedule 4 (NHS trusts and NHS contracts) makes further provision about an NHS trust acting as provider for the purposes of subsection (1).

(4) "Health service body" means any of the following—

[[F80](za) **[**[F15]NHS England**]**,

[[F81](zb) an integrate care board,**]]**

[F82](a) . . . . . .

[F83](b) . . . . . .

(c) an NHS trust,

(d) a Special Health Authority,

(e) a Local Health Board,

(f) a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978 (c. 29),

[[F84](fa) a Special Health Board constituted under that section,**]**

[[F85](g) the Regional Agency for Public Health and Social Well-being,**]**

(h) the Common Services Agency for the Scottish Health Service,

(i) the Wales Centre for Health,

[F86](j) . . . . . .

[[F87](k) the Care Quality Commission,**]**

[[F88](ka) NICE,**]**

[F89](kb) . . . . . .

[F90](kc) . . . . . .

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[[F91](kd) the Health Services Safety Investigations Body,**]**

(l) the Scottish Dental Practice Board,

(m) the Secretary of State,

(n) the Welsh Ministers,

[[F92](na) the Scottish Ministers,

(nb) Healthcare Improvement Scotland,**]**

[[F93](o) the Regional Business Services Organisation,**]**

(p) a special health and social services agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (S.I. 1990/247 (N.I.3)),

(q) a **[**[F94]Health and Social Care trust**]** trust established under the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I.1)),

(r) the Department of Health, Social Services and Public Safety.

(5) Whether or not an arrangement which constitutes an NHS contract would apart from this subsection be a contract in law, it must not be regarded for any purpose as giving rise to contractual rights or liabilities.

(6) But if any dispute arises with respect to such an arrangement, either party may refer the matter to the Secretary of State for determination under this section.

(7) If, in the course of negotiations intending to lead to an arrangement which will be an NHS contract, it appears to a health service body—

(a) that the terms proposed by another health service body are unfair by reason that the other is seeking to take advantage of its position as the only, or the only practicable, provider of the goods or services concerned or by reason of any other unequal bargaining position as between the prospective parties to the proposed arrangement, or

(b) that for any other reason arising out of the relative bargaining position of the prospective parties any of the terms of the proposed arrangement cannot be agreed,

that health service body may refer the terms of the proposed arrangement to the Secretary of State for determination under this section.

(8) Where a reference is made to the Secretary of State under subsection (6) or (7), he may determine the matter himself or appoint a person to consider and determine it in accordance with regulations.

(9) "The appropriate person" means the Secretary of State or the person appointed under subsection (8).

(10) By the determination of a reference under subsection (7) the appropriate person may specify terms to be included in the proposed arrangement and may direct that it be proceeded with.

(11) A determination of a reference under subsection (6) may contain such directions (including directions as to payment) as the appropriate person considers appropriate to resolve the matter in dispute.

(12) The appropriate person may by the determination in relation to an NHS contract vary the terms of the arrangement or bring it to an end (but this does not affect the generality of the power of determination under subsection (6)).

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(13) Where an arrangement is so varied or brought to an end—

(a) subject to paragraph (b), the variation or termination must be treated as being effected by agreement between the parties, and

(b) the directions included in the determination by virtue of subsection (11) may contain such provisions as the appropriate person considers appropriate in order to give effect to the variation or to bring the arrangement to an end.

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F80 S. 9(4)(za)(zb) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 6(2)(a)**; S.I. 2012/1831, art. 2(2)

F81 S. 9(4)(zb) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 90**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F82 S. 9(4)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 6(2)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F83 S. 9(4)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 6(2)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F84 S. 9(4)(fa) inserted (1.2.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 21 para. 6(a)**; S.I. 2012/2657, art. 2(4)

F85 S. 9(4)(g) substituted (30.11.2022) by The Health and Social Care Act (Northern Ireland) 2022 (Consequential Amendments) Order 2022 (S.I. 2022/1174), arts. 1(2), **23(2)(a)**

F86 S. 9(4)(j) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 18**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F87 S. 9(4)(k) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 82**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(bb)

F88 S. 9(4)(ka) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 17 para. 10(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F89 S. 9(4)(kb) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 10(2)** (with reg. 3)

F90 S. 9(4)(kc) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(4)** (with reg. 7)

F91 S. 9(4)(kd) inserted (1.10.2023) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 15 para. 8(2)**; S.I. 2023/1035, reg. 2(c)

F92 S. 9(4)(na)(nb) inserted (1.2.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 21 para. 6(b)**; S.I. 2012/2657, art. 2(4)

F93 S. 9(4)(o) substituted (30.11.2022) by The Health and Social Care Act (Northern Ireland) 2022 (Consequential Amendments) Order 2022 (S.I. 2022/1174), arts. 1(2), **23(2)(b)**

F94 Words in s. 9(4)(q) substituted (30.11.2022) by The Health and Social Care Act (Northern Ireland) 2022 (Consequential Amendments) Order 2022 (S.I. 2022/1174), arts. 1(2), **23(2)(c)**

Modifications etc. (not altering text)

C7 S. 9 modified (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **103(1)**

C8 S. 9 modified (E.) (7.12.2015) by The National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862), regs. 1(2), **10-12** (with reg. 2)

C9 S. 9 modified (E.) (7.12.2015) by The National Health Service (Personal Medical Services Agreements) Regulations 2015 (S.I. 2015/1879), regs. 1(2), **9** (with regs. 2, 88)

C10 S. 9(4) modified (temp.) (1.10.2008) by Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 (S.I. 2008/2250), arts. 1(1), **3(14)**

C11 S. 9(5) applied (E.) (7.12.2015) by The National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862), regs. 1(2), **84(2)(b)** (with reg. 2)

C12 S. 9(5) applied (E.) (7.12.2015) by The National Health Service (Personal Medical Services Agreements) Regulations 2015 (S.I. 2015/1879), regs. 1(2), **77(3)(b)** (with regs. 2, 88)

C13 S. 9(12)(13) applied (E.) (7.12.2015) by The National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862), regs. 1(2), **84(2)(a)** (with reg. 2)

C14 S. 9(12)(13) applied (E.) (7.12.2015) by The National Health Service (Personal Medical Services Agreements) Regulations 2015 (S.I. 2015/1879), regs. 1(2), **77(3)(a)** (with regs. 2, 88)

10 Provision for bodies in Northern Ireland

(1) Subsection (2) applies where **[**[F95]the Regional Agency for Public Health and Social Well-being**]** or a body mentioned in paragraph (o), (p), (q) or (r) of section 9(4) is a party or prospective party to an arrangement or proposed arrangement which—

(a) falls within the definition of NHS contract in section 9(1), and

(b) also falls within the definition of HSS contract in Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I.1)).

(2) Subsections (5) to (13) of section 9 apply in relation to the arrangement or proposed arrangement with the substitution for references to the Secretary of State of references to the Secretary of State and the Department of Health, Social Services and Public Safety acting jointly.

Textual Amendments

F95 Words in s. 10(1) substituted (30.11.2022) by The Health and Social Care Act (Northern Ireland) 2022 (Consequential Amendments) Order 2022 (S.I. 2022/1174), arts. 1(2), **23(3)**

[F96]10A Provision for bodies in Scotland

(1) Subsection (2) applies where the Scottish Ministers are, or a body mentioned in paragraph (f), (fa), (h), (l) or (nb) of section 9(4) is, a party or prospective party to an arrangement or proposed arrangement which—

(a) falls within the definition of NHS contract in section 9(1), and

(b) also falls within the definition of NHS contract in section 17A of the National Health Service (Scotland) Act 1978.

(2) Subsections (5) to (13) of section 9 apply in relation to the arrangement or proposed arrangement (except in so far as it relates to reserved matters within the meaning of the Scotland Act 1998) with the substitution for references to the Secretary of State of references to the Secretary of State and the Scottish Ministers acting jointly.

(3) Subsection (4) applies (and subsection (2) does not apply) where a cross-border Special Health authority is a party or prospective party to an arrangement or proposed arrangement which—

(a) falls within the definition of NHS contract in section 9(1), and

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(b) also falls within the definition of NHS contract in section 17A of the National Health Service (Scotland) Act 1978 and the definition of NHS contract in section 7(1) of the National Health Service (Wales) Act 2006.

(4) Subsections (5) to (13) of section 9 apply in relation to that arrangement or proposed arrangement (except in so far as it relates to reserved matters within the meaning of the Scotland Act 1998) with the substitution for references to the Secretary of State—

(a) where the cross-border Special Health Authority is exercising functions in relation to England only, of references to the Secretary of State and the Scottish Ministers acting jointly; and

(b) where the Authority is exercising functions in relation to England and Wales, of references to the Secretary of State and the Welsh Ministers acting concurrently with each other and jointly with the Scottish Ministers.

(5) In subsections (3) and (4), "cross-border Special Health Authority" means a Special Health Authority which is established under the National Health Service Act 2006 and the National Health Service (Wales) Act 2006 by virtue of—

(a) paragraph 1(2) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006, or

(b) the power under section 28 of the National Health Service Act 2006 and the power under section 22 of the National Health Service (Wales) Act 2006 being exercised together.**]**

Textual Amendments

F96 S. 10A inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 21 para. 7**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

11 Arrangements to be treated as NHS contracts

(1) This section applies to any arrangement under which **[**[F97]**[**[F15]NHS England**]**,**]**[F98]... [F99]... or such other health service body as may be prescribed arrange for the provision to it—

(a) by a contractor under a general ophthalmic services contract,

(b) by a person on an ophthalmic list,

(c) by a person on a pharmaceutical list, or

(d) by a person who has entered into a pharmaceutical care services contract under section 17Q of the National Health Service (Scotland) Act 1978 (c. 29),

of the goods or services mentioned in subsection (2).

(2) The goods or services are those that the body reasonably requires for the purposes of its functions, other than functions under—

(a) section 115 (primary ophthalmic services),

(b) Chapter 1 or 2 of Part 7 (pharmaceutical services and local pharmaceutical services under pilot schemes), or

(c) Part 6 of, or Chapter 1 or 2 of Part 7 of, the National Health Service (Wales) Act 2006 (c. 42) (general ophthalmic services and pharmaceutical services and local pharmaceutical services under pilot schemes).

(3) Any such arrangement must be treated as an NHS contract for the purposes of section 9 (other than subsections (7) and (10)).

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(4) "Health service body" means a body which is a health service body for the purposes of section 9.

(5) "Ophthalmic list" means a list published in accordance with regulations made under—
- (a) section 72(1)(a) of the National Health Service (Wales) Act 2006,
- (b) section 26(2)(a) of the National Health Service (Scotland) Act 1978, or
- (c) Article 62(2)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

(6) The reference to a list published in accordance with regulations made under paragraph (a) of section 26(2) of the National Health Service (Scotland) Act 1978 is a reference to the first part of the list (referred to in sub-paragraph (i) of that paragraph) which is published in accordance with regulations under that paragraph.

(7) "Pharmaceutical list" includes a list published in accordance with regulations made under—
- (a) section 83(2)(a) of the National Health Service (Wales) Act 2006, or
- (b) Article 63(2A)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F97 Words in s. 11(1) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 7(a)**; S.I. 2012/1831, art. 2(2)

F98 Words in s. 11(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 7(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F99 Words in s. 11(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 7(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

C15 S. 11 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 3 paras. 2, **3** (with Sch. 3 Pt. 1)

[F100 Arrangements with other bodies]

Textual Amendments

F100 S. 12 cross-heading substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(7)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

12 Secretary of State's arrangements with other bodies

(1) The Secretary of State may arrange with any person or body to provide, or assist in providing, **[**F101anything which the Secretary of State has a duty or power to provide, or arrange for the provision of, under section 2A or 2B or Schedule 1**]**.

[F102(2) The bodies with whom arrangements may be made under subsection (1) include—
- (a) **[**F15NHS England**]**,

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(b) **[**[F103]integrated care boards,**]**
(c) any other public authorities, and
(d) voluntary organisations.**]**

[[F104](3) The Secretary of State may make available any facilities provided by the Secretary of State under section 2A or 2B or Schedule 1 to any service provider or to any eligible voluntary organisation.

(3A) In subsection (3)—

"eligible voluntary organisation" means a voluntary organisation eligible for assistance under section 64 or section 65 of the Health Services and Public Health Act 1968;

"service provider" means a person or body with whom the Secretary of State has made an arrangement under subsection (1).**]**

(4) Where facilities are made available under subsection (3), the Secretary of State may make available the services of any person employed in connection with the facilities by—

(a) the Secretary of State,
[[F105](aa) **[**[F15]NHS England**]**,
[[F106](ab) an integrated care board,**]**
(ac) a local authority,**]**
[F107](b) . . . . . .
[F108](c) . . . . . .
(d) a Special Health Authority, or
(e) a Local Health Board.

[[F109](4A) In subsection (4), "local authority" has the same meaning as in section 2B.**]**

(5) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to the Secretary of State.

(6) Goods or materials may be made available either temporarily or permanently.

(7) Any power to supply goods or materials under this section includes—

(a) a power to purchase and store them, and
(b) a power to arrange with third parties for the supply of goods or materials by those third parties.

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F101 Words in s. 12(1) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F102 S. 12(2) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(3)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F103 S. 12(2)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 91(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F104 S. 12(3)(3A) substituted for s. 12(3) (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

***Changes to legislation:** National Health Service Act 2006, Part 1 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F105 S. 12(4)(aa)-(ac) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(5)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F106 S. 12(4)(ab) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 91(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F107 S. 12(4)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(5)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F108 S. 12(4)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(5)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F109 S. 12(4A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 8(6)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F110 12ZA Commissioning arrangements by [F15 NHS England] or [F111 integrated care boards]

(1) This section applies in relation to arrangements made by **[**F15 NHS England**]** or **[**F112 an integrated care board**]** in the exercise of functions under section 3, 3A, 3B or 4 or Schedule 1.

(2) The arrangements may be made with any person or body (including public authorities and voluntary organisations).

F113 **[** (2A) The arrangements may confer discretions on a person with whom they are made in relation to anything to be provided under the arrangements.**]**

(3) If **[**F15 NHS England**]** or **[**F114 an integrated care board**]** arranges for the provision of facilities by a service provider, it may also make arrangements for those facilities to be made available to another service provider or to an eligible voluntary organisation.

(4) **[**F15 NHS England**]** or **[**F115 an integrated care board**]** may make available any of its facilities to—

(a) a service provider, or

(b) an eligible voluntary organisation.

(5) Where facilities are made available under subsection (4) any of the following persons may make available the services of any employee of that person who is employed in connection with the facilities—

(a) the Secretary of State,

(b) **[**F15 NHS England**]**,

[F116 (c) an integrated care board,**]**

(d) a Special Health Authority, or

(e) a Local Health Board.

(6) Goods or materials may be made available under this section either temporarily or permanently.

(7) Any power to supply goods or materials under this section includes—

(a) a power to purchase or store them, and

(b) a power to arrange with third parties for the supply of goods or materials by those third parties.

(8) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments.

(9) In this section—

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"eligible voluntary organisation" means a voluntary organisation eligible for assistance under section 64 or section 65 of the Health Services and Public Health Act 1968;

"service provider" means a person or body with whom **[**[F15]NHS England**]** or **[**[F117]an integrated care board**]** has made arrangements in the exercise of the functions mentioned in subsection (1).**]**

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F110 S. 12ZA inserted (1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 9**; S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F111 Words in s. 12ZA heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 92(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F112 Words in s. 12ZA(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 92(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F113 S. 12ZA(2A) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 24**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F114 Words in s. 12ZA(3) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 92(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F115 Words in s. 12ZA(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 92(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F116 S. 12ZA(5)(c) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 92(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F117 Words in s. 12ZA(9) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 92(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[[F118]*Procurement*

Textual Amendments

F118 S. 12ZB and cross-heading inserted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 79**, 186(6); S.I. 2023/1431, reg. 3(b)

12ZB Procurement regulations

(1) Regulations may make provision in relation to the processes to be followed and objectives to be pursued by relevant authorities in the procurement of—

(a) health care services for the purposes of the health service in England, and

(b) other goods or services that are procured together with those health care services.

(2) Regulations under subsection (1) must include provision specifying steps to be taken when following a competitive tendering process.

(3) Regulations under subsection (1) must, in relation to the procurement of all health care services to which they apply, make provision for the purposes of—

(a) ensuring transparency;

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(b) ensuring fairness;
(c) ensuring that compliance can be verified;
(d) managing conflicts of interest.

(4) NHS England must publish such guidance as it considers appropriate about compliance with the regulations.

(5) A relevant authority must have regard to guidance published under this section.

(6) Before publishing guidance under this section, NHS England must obtain the approval of the Secretary of State.

(7) In this section—

"health care service" has the same meaning as in Part 3 of the Health and Social Care Act 2012 (see section 150 of that Act);

"relevant authority" means—

(a) a combined authority;
(aa) **[**[F119]a combined county authority;**]**
(c) an integrated care board;
(d) a local authority in England;
(e) NHS England;
(f) an NHS foundation trust;
(g) an NHS trust established under section 25.

Textual Amendments

F119 Words in s. 12ZB(7) inserted (26.12.2023) by Levelling-Up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 164** (with s. 247)

[[F120]**12ZC Eradicating slavery and human trafficking in supply chains**

(1) The Secretary of State must by regulations make such provision as the Secretary of State thinks appropriate with a view to eradicating the use in the health service in England of goods or services that are tainted by slavery and human trafficking.

(2) The regulations may, in particular, include—

(a) provision in connection with the processes to be followed by public bodies in the procurement of goods or services for the purposes of the health service in England (including provision as to circumstances in which a supplier is excluded from consideration for the award of a contract);
(b) provision as to steps that must be taken by public bodies for assessing and addressing the risk of slavery and human trafficking taking place in relation to people involved in health service supply chains;
(c) provision as to matters for which provision must be made in contracts for goods or services entered into by public bodies for the purposes of the health service in England.

(3) In this section—

"health service supply chains" means supply chains for providing goods or services for the purposes of the health service in England;

"public body" means a body exercising functions of a public nature;

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"slavery and human trafficking" has the meaning given by section 54(12) of the Modern Slavery Act 2015;

"tainted": goods or services are "tainted" by slavery and human trafficking if slavery and human trafficking takes place in relation to anyone involved in the supply chain for providing those goods or services.**]**

Textual Amendments

F120 S. 12ZC inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 81(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[F121 Direct payments for health care

Textual Amendments

F121 Ss. 12A-12D and cross-heading inserted (19.1.2010) by Health Act 2009 (c. 21), **ss. 11**, 40(1); S.I. 2010/30, art. 2(b)

12A Direct payments for health care

(1) The Secretary of State **[**F122, **[**F15NHS England**]**, **[**F123an integrated care board**]** or a local authority**]** may, for the purpose of securing the provision to a patient of anything to which this subsection applies, make payments, with the patient's consent, to the patient or to a person nominated by the patient.

(2) Subsection (1) applies to—

[F124(a) anything that the Secretary of State or a local authority has a duty or power to provide or arrange under section 2A or 2B or Schedule 1;**]**

[F125(aa) anything that **[**F15NHS England**]** or **[**F126an integrated care board**]** may or must arrange for the provision of under this Act or any other enactment.**]**

F127(b) . . . . . .

F127(c) . . . . . .

(3) Subsection (1) is subject to any provision made by regulations under section 12B.

(4) If regulations so provide, **[**F128an integrated care board**]** may, for the purpose of securing the provision for a patient of services that **[**F129the board**]** must provide under section 117 of the Mental Health Act 1983 (after-care), make payments, with the patient's consent, to the patient or to a person nominated by the patient **[**F130; and the references in this subsection to **[**F128an integrated care board**]** are, so far as necessary for the purposes of regulations under subsection (2E) of that section, to be read as references to **[**F15NHS England**]**.**]**

(5) A payment under subsection (1) F131... is referred to in this Part as a "direct payment".

F132(6) . . . . . .

[In this section and sections 12B to 12D, "local authority" has the same meaning as F133(7) in section 2B.**]**

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Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F122 Words in s. 12A(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F123 Words in s. 12A(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 93(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F124 S. 12A(2)(a) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(3)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F125 S. 12A(2)(aa) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(3)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F126 Words in s. 12A(2)(aa) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 93(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F127 S. 12A(2)(b)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(3)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F128 Words in s. 12A(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 93(3)(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F129 Words in s. 12A(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 93(3)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F130 Words in s. 12A(4) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(4)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F131 Words in s. 12A(5) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(5)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F132 S. 12A(6) repealed (E.) (1.8.2013) by The National Health Service (Direct Payments) (Repeal of Pilot Schemes Limitation) Order 2013 (S.I. 2013/1563), arts. 1, **2**

F133 S. 12A(7) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 10(6)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

12B Regulations about direct payments

(1) The Secretary of State may make regulations about direct payments.

(2) The regulations may in particular make provision—

(a) as to circumstances in which, and descriptions of persons and services in respect of which, direct payments may or must be made;

(b) as to circumstances in which direct payments may or must be made to a person nominated by the patient;

(c) as to the making of direct payments (and, in particular, as to persons to whom payments may or must be made) where the patient lacks capacity to consent to the making of the payments;

(d) as to conditions that the Secretary of State **[**[F134], **[**[F15]NHS England**]**, **[**[F135]an integrated care board**]** or a local authority**]** must comply with before, after or at the time of making a direct payment;

(e) as to conditions that the patient or (if different) the payee may or must be required to comply with before, after, or at the time when a direct payment is made;

(f) as to the amount of any direct payment or how it is to be calculated;

(g) as to circumstances in which the Secretary of State **[**[F136], **[**[F15]NHS England**]**, **[**[F137]an integrated care board**]** or a local authority**]** may or must stop making direct payments;

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(h) as to circumstances in which the Secretary of State **[**[F138], **[**[F15]NHS England**]**, **[**[F139]an integrated care board**]** or a local authority**]** may or must require all or part of a direct payment to be repaid, by the payee or otherwise;

(i) as to monitoring of the making of direct payments, of their use by the payee, or of services which they are used to secure;

(j) as to arrangements to be made by the Secretary of State **[**[F140], **[**[F15]NHS England**]**, **[**[F141]an integrated care board**]** or a local authority**]** for providing patients, payees or their representatives with information, advice or other support in connection with direct payments;

(k) for such support to be treated to any prescribed extent as a service in respect of which direct payments may be made.

(3) If the regulations make provision in the case of a person who lacks capacity to consent to direct payments being made, they may apply that provision, or make corresponding provision, with or without modifications, in the case of a person who has lacked that capacity but no longer does so (whether because of fluctuating capacity, or regaining or gaining capacity).

(4) The regulations may provide for a sum which must be repaid to the Secretary of State **[**[F142], **[**[F15]NHS England**]**, **[**[F143]an integrated care board**]** or a local authority**]** by virtue of a condition or other requirement imposed by or under the regulations to be recoverable as a debt due to the Secretary of State **[**[F144]**[**[F15]NHS England**]**, a clinical commissioning group or a local authority (as the case may be)**]**.

(5) The regulations may make provision—

(a) for a service in respect of which a direct payment has been made under section 12A(1) to be regarded, only to such extent and subject to such conditions as may be prescribed, as provided or arranged for by the Secretary of State **[**[F145]or a local authority or as arranged for by **[**[F15]NHS England**]** or **[**[F146]an integrated care board**]** (as the case may be)**]** under an enactment mentioned in section 12A(2);

(b) displacing functions or obligations of **[**[F147]**[**[F15]NHS England**]**, **[**[F148]an integrated care board**]** or a local authority with respect to the arrangement for the provision of**]** after-care services under section 117 of the Mental Health Act 1983, only to such extent and subject to such conditions as may be prescribed.

(6) In this section—

(a) "service" includes anything in respect of which direct payments may be made;

(b) references to a person lacking capacity are references to a person lacking capacity within the meaning of the Mental Capacity Act 2005.

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F134 Words in s. 12B(2)(d) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F135 Words in s. 12B(2)(d) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F136 Words in s. 12B(2)(g) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F137 Words in s. 12B(2)(g) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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F138 Words in s. 12B(2)(h) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F139 Words in s. 12B(2)(h) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F140 Words in s. 12B(2)(j) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F141 Words in s. 12B(2)(j) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F142 Words in s. 12B(4) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(3)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F143 Words in s. 12B(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F144 Words in s. 12B(4) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(3)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F145 Words in s. 12B(5)(a) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(4)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F146 Words in s. 12B(5)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F147 Words in s. 12B(5)(b) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 11(4)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F148 Words in s. 12B(5)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 94**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

12C Direct payments pilot schemes

F149(1) . . . . . .

F149(2) . . . . . .

F149(3) . . . . . .

F149(4) . . . . . .

(5) Provision as to the review of a pilot scheme may in particular include provision—

(a) for a review to be carried out by an independent person;

(b) for publication of the findings of a review;

(c) as to matters to be considered on a review.

(6) Those matters may in particular include any of the following—

(a) the administration of the scheme;

(b) the effect of direct payments on the cost or quality of care received by patients;

(c) the effect of direct payments on the behaviour of patients, carers or persons providing services in respect of which direct payments are made.

(7) After any review of one or more pilot schemes, the Secretary of State may make an order under subsection (8) or (10).

(8) An order under this subsection is an order making provision for either or both of the following—

(a) repealing section 12A(6) and subsections (1) to (4) of this section;

(b) amending, repealing, or otherwise modifying any other provision of this Act.

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(9) An order may make provision within subsection (8)(b) only if it appears to the Secretary of State to be necessary or expedient for the purpose of facilitating the exercise of the powers conferred by section 12A(1) or by regulations under section 12A(4).

(10) An order under this subsection is an order repealing sections 12A, 12B, 12D and this section.

Textual Amendments

F149 Ss. 12C(1)-(4) repealed (E.) (1.8.2013) by The National Health Service (Direct Payments) (Repeal of Pilot Schemes Limitation) Order 2013 (S.I. 2013/1563), arts. 1, **2**

12D Arrangements with other bodies relating to direct payments

(1) The Secretary of State **[**[F150], **[**[F15]NHS England**]**, **[**[F151]an integrated care board**]** or a local authority**]** may arrange with any person or body to give assistance in connection with direct payments.

(2) Arrangements may be made under subsection (1) with voluntary organisations.

(3) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by the Secretary of State **[**[F152], **[**[F15]NHS England**]**, **[**[F153]an integrated care board**]** or a local authority**].]**

Textual Amendments

F15 Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F150 Words in s. 12D(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 12(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F151 Words in s. 12D(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 95**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F152 Words in s. 12D(3) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 12(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F153 Words in s. 12D(3) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 95**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[[F154]*Miscellaneous*

Textual Amendments

F154 S. 12E and cross-heading inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 147**, 306(4); S.I. 2012/1831, art. 2(2); S.I. 2013/160, art. 2(2) (with arts. 7-9)

12E Secretary of State's duty as respects variation in provision of health services

(1) The Secretary of State must not exercise the functions mentioned in subsection (2) for the purpose of causing a variation in the proportion of services provided as part of the

Changes to legislation: *National Health Service Act 2006, Part 1 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

health service that is provided by persons of a particular description if that description is by reference to—

(a) whether the persons in question are in the public or (as the case may be) private sector, or

(b) some other aspect of their status.

[[F155](2) The functions mentioned in this subsection are the functions of the Secretary of State under—

(a) section 6E;

(b) section 12ZB;

(c) section 13A.**]]**

Textual Amendments

F155 S. 12E(2) substituted (1.1.2024) by Health and Care Act 2022 (c. 31), **ss. 80(1)(a)**, 186(6); S.I. 2023/1431, reg. 3(c)

[[F156]**12F Expected mental health spending**

(1) The Secretary of State must, in respect of each financial year, publish and lay before Parliament a document—

(a) stating, by comparison with the previous financial year—

(i) whether the Secretary of State expects there to be an increase in the amount of expenditure incurred by NHS England and integrated care boards (taken together) in relation to mental health, and

(ii) whether the Secretary of State expects there to be an increase in the proportion of the expenditure incurred by NHS England and integrated care boards (taken together) that relates to mental health, and

(b) explaining why.

(2) The Secretary of State must publish and lay the document before the financial year to which it relates.**]]**

Textual Amendments

F156 S. 12F inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 3(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Changes to legislation:
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View outstanding changes

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):

- s. 3B(1)(aa) inserted by 2022 c. 31 Sch. 3 para. 2(b)
- s. 3B(1)(za) inserted by 2022 c. 31 Sch. 3 para. 2(a)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by 2014 c. 23 s. 120(18)(a)
- s. 35(3A)(3B) inserted by 2012 c. 7 s. 159(4)
- s. 35(3A) words substituted by 2022 c. 31 Sch. 5 para. 12(4) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by 2012 c. 7 Sch. 14 para. 5
- s. 42(1A) inserted by 2012 c. 7 Sch. 14 para. 6
- s. 65F(2A)-(2F) inserted by 2012 c. 7 Sch. 14 para. 15(4) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by 2012 c. 7 Sch. 14 para. 17(4)
- s. 65H(10A) omitted by 2022 c. 31 Sch. 8 para. 7(7) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by 2022 c. 31 Sch. 3 para. 3
- s. 84(4)-(4B) substituted for s. 84(4) by 2022 c. 31 Sch. 3 para. 4(4)
- s. 92(5A) inserted by 2022 c. 31 Sch. 3 para. 9(4)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by 2022 c. 31 Sch. 3 para. 11(3)
- s. 98A98B substituted for s. 98A by 2022 c. 31 Sch. 3 para. 14
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by 2022 c. 31 Sch. 3 para. 15
- s. 100(3A)(3B) inserted by 2022 c. 31 Sch. 3 para. 16(4)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by 2022 c. 31 Sch. 3 para. 23(3)
- s. 112(1)(za) inserted by 2022 c. 31 Sch. 3 para. 24(2)(b)
- s. 114A114B substituted for s. 114A by 2022 c. 31 Sch. 3 para. 26
- s. 114C and cross-heading inserted by 2022 c. 31 Sch. 3 para. 27
- s. 116A116B and cross-heading inserted by 2022 c. 31 Sch. 3 para. 30
- s. 117(4)(4A) substituted for s. 117(4) by 2022 c. 31 Sch. 3 para. 31(4)
- s. 125A125B substituted for s. 125A by 2022 c. 31 Sch. 3 para. 39
- s. 223C(1)(c)(d) inserted by 2022 c. 31 s. 28
- s. 223LA inserted by 2022 c. 31 s. 30(3)
- Sch. 15 para. 4(1)(b) and word omitted by 2012 c. 7 Sch. 14 para. 39(3)