

Draft Order laid before Parliament under section 304(5) of the Health and Social Care Act 2012, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

NATIONAL HEALTH SERVICE, ENGLAND

**The Health and Social Care Act 2012
(Consequential Amendments) Order 2013**

Made - - - - *****
Coming into force - - *1st April 2013*

The Secretary of State makes the following Order in exercise of the powers conferred by section 303 of the Health and Social Care Act 2012(1).

A draft of this Order has been laid before and approved by resolution of each House of Parliament in accordance with section 304(5) of that Act.

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Social Care Act 2012 (Consequential Amendments) Order 2013.

(2) This Order comes into force on 1st April 2013.

(3) Any amendment made by this Order has the same extent as the provision amended.

Amendment of the Vehicle Excise and Registration Act 1994

2. In paragraph 7 of Schedule 2 to the Vehicle Excise and Registration Act 1994(2) (vehicles exempt from vehicle excise duty), omit sub-paragraph (d) (together with the “or” following it).

(1) 2012 c. 7.

(2) 1994 c. 22. Paragraph 7(ba) of Schedule 2 is inserted by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 4, paragraph 96; paragraph 7(d) is inserted by S.I. 2000/90, Schedule 1, paragraph 28, and amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 169, 170. The word “or” following paragraph 7(d) is inserted by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedule 5, paragraph 39.

Amendment of the Education Act 1996

3. In section 403(2) of the Education Act 1996(3) (sex education: manner of provision), for “section 28(6) of the National Health Service Act 2006” substitute “the National Health Service Act 2006 (see section 275(1) of that Act)”.

Amendments of the Audit Commission Act 1998

4.—(1) The Audit Commission Act 1998(4) is amended as follows.

(2) In section 5(1)(a) (general duties of auditors)(5), after “National Health Service Act 2006” insert “or, in the case of a clinical commissioning group, in accordance with directions under paragraph 17(4) of Schedule 1A to that Act”.

(3) In section 10(2) (transmission and consideration of section 8 reports)(6), for “health service body) to the Secretary of State” substitute “health service body other than a clinical commissioning group) to the Secretary or State and (in the case of a clinical commissioning group) to the Secretary of State and the National Health Service Commissioning Board”.

(4) In section 19 (health service bodies: referral to Secretary of State) after “Secretary of State” insert “and (in the case of a clinical commissioning group) to the National Health Service Commissioning Board”.

(5) In section 33 (studies for improving economy etc in services)(7)—

(a) in subsection (3)—

(i) omit the “and” following paragraph (a),

(ii) after paragraph (b) insert

“, and

(c) if the body is a clinical commissioning group, any guidance given by the National Health Service Commissioning Board;”, and

(iii) after “objectives of the Secretary of State” insert “or the National Health Service Commissioning Board”,

(b) in subsection (6)(c), after “consult” insert “the National Health Service Commissioning Board;”, and

(c) in subsection (8), after “Those bodies are—” insert—

“(za) any clinical commissioning group;”.

(6) In section 49(1)(c) (restriction on disclosure of information)(8), after “Secretary of State” insert “, the National Health Service Commissioning Board”.

(3) 1996 c. 56. Section 403(2) is amended by the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraph 102, the Learning and Skills Act 2000 (c. 21), section 148(1) and (5), and the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 181 and 183.

(4) 1998 c. 18.

(5) Section 5(1)(a) is amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 281 and 295.

(6) Section 10(2) is amended by the Greater London Authority Act 1998 (c.29), Schedule 8, paragraphs 1 and 2.

(7) Section 33(6)(c) is amended by the Local Government and Public Involvement in Health Act 2007 (c. 28), section 153(1), (2) (b), Schedule 18, and the Health and Social Care Act 2008 (c. 14), Schedule 5, paragraph 66(1), (2). Section 33(8) is inserted by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 9, paragraph 12(1), (6), and amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 186, and 187, and the Health and Social Care Act 2012 (c. 7), Schedule 5, paragraph 81 and Schedule 14, paragraphs 71 and 72.

(8) Section 49(1)(c) is amended by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 9, paragraph 12(1), (10)(b), the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 186 and 188, and the Health and Social Care Act 2008 (c. 14), Schedule 5, paragraph 68(1), (4) and Schedule 15.

(7) In section 53(1) (interpretation), in the definition of “health service body”(9), after “means” insert “a clinical commissioning group or”.

(8) In Schedule 2 (accounts subject to audit), for paragraph 1A(10) substitute—

“(1A) Section 2 also applies to—

- (a) annual accounts of health service bodies prepared under paragraph 3(1) of Schedule 15 to the National Health Service Act 2006;
- (b) annual accounts of clinical commissioning groups prepared under paragraph 17(2) of Schedule 1A to that Act; and
- (c) accounts of such groups prepared under paragraph 17(3) of that Schedule in respect of which a direction has been given under paragraph 17(5) of that Schedule.”

Amendment of the Local Government Act 2000

5. In section 9FF(6) of the Local Government Act 2000(11) (reports and recommendations of overview and scrutiny committees: duties of certain partner authorities)—

(a) after “means—” insert—

- “(za) a clinical commissioning group,
- (zb) the National Health Service Commissioning Board,”

(b) at the end of paragraph (a), insert “or”, and

(c) omit paragraph (c) and the “or” immediately preceding it.

Amendment of the Local Government and Public Involvement in Health Act 2007

6. In section 104(2) of the Local Government and Public Involvement in Health Act 2007(12) (application of Chapter: partner authorities)—

(a) after paragraph (j) insert—

- “(ja) a clinical commissioning group;
- (jb) the National Health Service Commissioning Board;”, and

(b) omit paragraph (k).

Amendment of the Welfare Reform Act 2012

7. In section 130(4)(a) of the Welfare Reform Act 2012(13) (information-sharing in relation to provision of overnight care etc), omit “a Primary Care Trust”.

(9) The definition of “health service body” is substituted by the Health Act 2006 (c. 28), Schedule 8, paragraphs 39 and 41, and amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 281 and 296, S.I. 2008/817, article 4, and the Health and Social Care Act 2012 (c. 7), Schedule 14, paragraphs 71 and 73.

(10) Paragraph 1A is inserted by S.I. 2003/1324, Schedule 2, paragraph 2, substituted by the Health Act 2006 (c. 28), Schedule 8, paragraphs 39 and 42(1), (3), and amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 281 and 297.

(11) 2000 c. 22. Section 9FF is inserted by the Localism Act 2011 (c. 20), Schedule 2, paragraph 1.

(12) 2007 c. 28. Section 104(2) is amended by the Local Transport Act 2008 (c. 26), Schedule 4, paragraph 68, the Local Democracy, Economic Development and Construction Act 2009 (c. 20), Schedule 6, paragraph 121(1), (3), the Public Bodies Act 2011 (c. 24), Schedule 6 and the Police Reform and Social Responsibility Act 2011 (c. 13), Schedule 16, paragraphs 366 and 367.

(13) 2012 c. 5.

Consequential repeals

8. In consequence of the amendments made by articles 2 and 3, omit paragraphs 170(b) and 183 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006(14).

Date

Name
Parliamentary Under Secretary of State
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends seven Acts of Parliament in consequence of the Health and Social Care Act 2012 (c. 7) (“the Act”). The majority of such amendments are made in the Act itself.

The amendments are in consequence in particular of certain aspects of the Act. The amendments at articles 2, 5(b), 6(b) and 7 are in consequence of the abolition of Primary Care Trusts by section 34 of the Act and remove references to these bodies from the amended Acts. The amendment at article 3 is consequential on the fact that the Act moves the definition of “NHS body” in the National Health Service Act 2006 (c. 41) (“2006 Act”) from section 28 to section 275. The amendments at articles 5(a) and 6(a) are in consequence of the establishment of the National Health Service Commissioning Board by section 1H of the 2006 Act, as inserted by section 9 of the Act, and the establishment of clinical commissioning groups under section 14D of the 2006 Act, as inserted by section 25 of the Act. Articles 5(a) and 6(a) add those new bodies to the list of “partner authorities” in section 104 of the Local Government and Public Involvement in Health Act 2007 (c. 28) and to the list of partner authorities in section 9FF of the Local Government Act 2000 (c. 22) which are health service bodies and therefore exempt from the duty in that section. The amendments made by article 4 make clinical commissioning groups subject to the Audit Commission Act 1998, in particular the provisions relating to health service bodies.

A full impact assessment has not been produced for this instrument as the Order itself has no impact on the private sector or civil society organisations. A full Impact Assessment has been produced in relation to the provisions of the Act and a copy is available at www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583.