
EXPLANATORY NOTE

(This note is not part of the Order)

This Order repeals sections 12A(6) and 12C(1) to (4) of the National Health Service Act 2006 (“the 2006 Act”).

Sections 12A to 12D of the 2006 Act enable the Secretary of State, the National Health Service Commissioning Board, a clinical commissioning group or a local authority to make a direct payment to a patient or their representative in order to purchase goods or services that might otherwise be provided by the NHS.

Section 12A(6) of the 2006 Act provides that direct payments may only be made as part of a pilot scheme established under regulations made under section 12C of that Act.

Section 12C(1) to (4) of the 2006 Act makes provision for the Secretary of State to make regulations to govern pilot schemes in accordance with which direct payments may be made. These pilot schemes have been independently evaluated and considered successful. A copy of the final evaluation report dated 30th November 2012 is available at <https://www.phbe.org.uk/>. In the light of the positive evidence from the evaluation, direct payments are to be rolled out nationally to enable all patients across England to benefit.

Section 12C(7) of the 2006 Act enables the Secretary of State, having carried out a review of pilot schemes, to repeal sections 12A(6) and 12C(1) to (4) by an order described at section 12C(8)(a) of that Act. This Order removes the pilot schemes limitation by repealing sections 12A(6) and 12C(1) to (4) of the 2006 Act.

The regulations that will govern the rules for the making of direct payments will be made under section 12B of the 2006 Act by negative resolution. The National Health Service (Direct Payments) Regulations 2010 (S.I. 2010/1000) will be repealed in their entirety and replaced by a new negative instrument to come into force on the same day as this Order (1st August 2013). Any incidental, supplementary, consequential, saving or transitional provision as a result of the repeal of sections 12A(6) and 12C(1) to (4) of the 2006 Act and the abolition of the current pilot schemes will be dealt with in the new negative instrument.

An impact assessment has not been produced for this instrument as the instrument itself has no impact on the private sector or the voluntary sector. A full impact assessment has been produced in relation to the direct payments for healthcare consultation 2013 and a copy is available at <http://www.dh.gov.uk/health/2013/03/direct-payments-consultation/>.