



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 7

MISCELLANEOUS AND GENERAL

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

After section 12D of the National Health Service Act 2006 insert—

“Miscellaneous

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 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.
- (2) The functions mentioned in this subsection are the functions of the Secretary of State under—
 - (a) sections 6E and 13A, and
 - (b) section 75 of the Health and Social Care Act 2012 (requirements as to procurement, patient choice and competition).”

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Commencement Information

- I1** S. 147 in force at 1.10.2012 for specified purposes by **S.I. 2012/1831, art. 2(2)**
I2 S. 147 in force at 1.4.2013 in so far as not already in force by **S.I. 2013/160, art. 2(2)** (with arts. 7-9)

148 Service of documents

- (1) A notice required under this Part to be given or sent to or served on a person (“R”) may be given or sent to or served on R—
 - (a) by being delivered personally to R,
 - (b) by being sent to R—
 - (i) by a registered post service, as defined by section 125(1) of the Postal Services Act 2000, or
 - (ii) by a postal service which provides for the delivery of the document to be recorded, or
 - (c) subject to section 149, by being sent to R by an electronic communication.
- (2) Where a notice is sent as mentioned in subsection (1)(b), it is, unless the contrary is proved, to be taken to have been received on the third day after the day on which it is sent.
- (3) Where a notice is sent as mentioned in subsection (1)(c) in accordance with section 149, it is, unless the contrary is proved, to be taken to have been received on the next working day after the day on which it is transmitted.
- (4) In subsection (3) “working day” means a day other than—
 - (a) a Saturday or a Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971.
- (5) A notice required under this Part to be given or sent to or served on a body corporate or a firm is duly given, sent or served if it is given or sent to or served on the secretary or clerk of that body or a partner of that firm.
- (6) For the purposes of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person is—
 - (a) in the case of a person who holds a licence under Chapter 3 who has notified [^{F1}NHS England] of an address for service, that address, and
 - (b) in any other case, the address determined in accordance with subsection (7).
- (7) That address is—
 - (a) in the case of a secretary or clerk of a body corporate, the address of the registered or principal office of the body,
 - (b) in the case of a partner of a firm, the address of the principal office of the firm, and
 - (c) in any other case, the last known address of the person.
- (8) In this section and in section 149—

“electronic communication” has the same meaning as in the Electronic Communications Act 2000;

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“notice” includes any other document.

^{F2}(9)

Textual Amendments

- F1** Words in s. 148(6)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 90(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** S. 148(9) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 90(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

- I3** S. 148(1)-(5)(6)(b)(7)-(9) in force at 1.11.2012 by S.I. 2012/2657, **art. 2(2)**
- I4** S. 148(6)(a) in force at 1.4.2013 by S.I. 2013/671, **art. 2(3)**

149 Electronic communications

- (1) If a notice required or authorised by this Part to be given or sent by or to a person or to be served on a person is sent by an electronic communication, it is to be treated as given, sent or served only if the requirements of subsection (2) or (3) are met.
- (2) If the person required or authorised to give, send or serve the notice is [^{F3}NHS England] or the [^{F4}CMA]—
 - (a) the person to whom the notice is given or sent or on whom it is served must have indicated to [^{F3}NHS England] or (as the case may be) [^{F5}the CMA] the person's willingness to receive notices by an electronic communication and provided an address suitable for that purpose, and
 - (b) the notice must be sent to or given or served at the address so provided.
- (3) If the person required or authorised to give, send or serve the notice is not [^{F3}NHS England] or the [^{F6}CMA], the notice must be given, sent or served in such manner as [^{F3}NHS England] may require.
- (4) An indication given for the purposes of subsection (2) may be given generally for the purposes of notices required or authorised to be given, sent or served by [^{F3}NHS England] or (as the case may be) the [^{F6}CMA] under this Part or may be limited to notices of a particular description.
- (5) [^{F3}NHS England] must publish such requirements as it imposes under subsection (3).

Textual Amendments

- F3** Words in s. 149(2)-(5) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 91**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Word in s. 149(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 136(2)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Words in s. 149(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 136(2)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Words in s. 149(3)(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 136(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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Commencement Information

I5 S. 149 in force at 1.11.2012 by [S.I. 2012/2657](#), [art. 2\(2\)](#)

150 Interpretation, transitional provision and consequential amendments

(1) In this Part—

[^{F7}“anti-competitive behaviour” means behaviour which would (or would be likely to) prevent, restrict or distort competition and a reference to preventing anti-competitive behaviour includes a reference to eliminating or reducing the effects (or potential effects) of the behaviour;]

[^{F8}“the CMA” means the Competition and Markets Authority;]

“commissioner”, in relation to a health care service, means the person who arranges for the provision of the service (and “commission” is to be construed accordingly);

“enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978);

“facilities” has the same meaning as in the National Health Service Act 2006 (see section 275 of that Act);

“financial year” means a period of 12 months ending with 31 March;

[^{F9}“health care” means all forms of health care provided for individuals, whether relating to physical or mental health, with a reference in this Part to “health care services” being read accordingly; and for the purposes of this Part it does not matter if a health care service is also an adult social care service;]

[^{F10}“the NHS” means the comprehensive health service continued under section 1(1) of the National Health Service Act 2006, except the part of it that is provided in pursuance of the public health functions (within the meaning of that Act) of the Secretary of State or local authorities;]

“prescribed” means prescribed in regulations;

“service” includes facility.

[^{F11}(1A) A reference in this Part to the provision of health care services for the purposes of the NHS is a reference to their provision for those purposes in accordance with the National Health Service Act 2006.]

[^{F12}(2)

[^{F13}(3)

(4) Until section 181 comes into force, the following provisions in this Part are to be read as if the words “and its Healthwatch England committee” were omitted—

- (a) section 83(4)(c);
- (b) section 84(5)(a)(iii);
- (c) section 95(2)(e);
- (d) section 100(2)(e).

(5) Schedule 13 (which contains minor and consequential amendments) has effect.

Textual Amendments

F7 Words in [s. 150\(1\)](#) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [s. 186\(6\)](#), [Sch. 5 para. 92\(2\)\(a\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch. \(with regs. 13, 29, 30\)](#)

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- F8** Words in s. 150(1) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 137**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 150(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 92(2)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F10** Words in s. 150(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 92(2)(c)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F11** S. 150(1A) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 92(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F12** S. 150(2) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 16**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F13** S. 150(3) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 183**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

- I6** S. 150 partly in force; s. 150 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I7** S. 150(1)(3) in force at 1.11.2012 in so far as not already in force by S.I. 2012/2657, **art. 2(2)**
- I8** S. 150(5) in force at 1.7.2012 for specified purposes by S.I. 2012/1319, **art. 2(3)**
- I9** S. 150(5) in force at 1.11.2012 for specified purposes by S.I. 2012/2657, **art. 2(2)**
- I10** S. 150(5) in force at 1.4.2013 for specified purposes by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)