



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 3

LICENSING

Transitional provision

[^{F1}113 Orders under section 112: criteria for deciding applicable trusts

- (1) Where the Secretary of State proposes to make an order under section 112, the Secretary of State must notify [^{F2}NHS England].
- (2) [^{F2}NHS England], having received a notification under subsection (1), must set the criteria that are to be applied for the purpose of determining to which NHS foundation trusts the order should apply.
- (3) Before setting criteria under subsection (2), [^{F2}NHS England] must—
 - (a) consult the Care Quality Commission and such other persons as [^{F2}NHS England] considers appropriate, and
 - (b) obtain the approval of the Secretary of State.
- (4) If the Secretary of State approves the proposed criteria, [^{F2}NHS England] must—
 - (a) publish the criteria,
 - (b) determine, by applying the criteria, to which trusts the order should apply,
 - (c) notify the Secretary of State of its determination, and
 - (d) publish a list of the trusts concerned.

Changes to legislation: *Health and Social Care Act 2012, Section 113 is up to date with all changes known to be in force on or before 26 May 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*

- (5) If the Secretary of State does not approve the proposed criteria, [^{F2}NHS England] must propose revised criteria; and subsections (3)(b) and (4) apply in relation to the proposed revised criteria as they apply in relation to the criteria previously proposed.
- (6) The Secretary of State, having received a notification under subsection (4)(c), must review [^{F3}NHS England's] determination under subsection (4)(b).]

Textual Amendments

- F1** S. 113 repealed (coming into force immediately after the repeal of s. 111 as soon as there are no NHS foundation trusts in relation to which s. 111 has effect as a result of orders made under s. 112(1)-(4) of the amending Act or as soon as there are no such trusts in existence) by [Health and Social Care Act 2012 \(c. 7\), ss. 114\(1\), 306\(4\); S.I. 2013/671, art. 2\(3\)](#)
- F2** Words in s. 113(1)-(5) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 5 para. 73\(2\); S.I. 2022/734, reg. 2\(a\), Sch. \(with regs. 13, 29, 30\)](#)
- F3** Words in s. 113(6) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 5 para. 73\(3\); S.I. 2022/734, reg. 2\(a\), Sch. \(with regs. 13, 29, 30\)](#)

Commencement Information

- I1** S. 113 in force at 1.4.2013 by [S.I. 2013/671, art. 2\(3\)](#)

Changes to legislation:

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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\(5\)](#)