

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 4 – Pricing

Section 118 - Consultation on proposals for the national tariff

879. The national tariff must include certain elements and *subsections (7), (8) and (9)* require that Monitor and the NHS Commissioning Board agree those elements. The proposals for these elements must be included in a notice published and sent to all commissioners, relevant providers and other persons considered appropriate (*subsection (1)*). The elements are:

- the health care services to which the national tariff would apply, including the ‘currencies’ or units of services for which there are prices specified in the national tariff;
- the methodology (or methodologies) for determining the prices payable for those services, which would include the input data and the processes of calculation for determining the prices payable under the national tariff;
- the prices payable for those services, including any provision for adjustments that Monitor and the NHS Commissioning Board have agreed should be applicable;
- the methodology to be used by Monitor when considering an agreement for a price modification under section 124 or an application for a price modification under section 125.

880. The national tariff may also include other elements. If they are included *subsections (10), (11) and (12)* require that Monitor and the NHS Commissioning Board must also agree those elements and that the proposals for them must be included in the notice published under subsection (1). These could be:

- variations on the prices payable and any associated guidance;
- rules under which providers and commissioners could agree to vary the prices payable under the national tariff and any associated guidance;
- rules for determining prices payable locally for services not specified in the national tariff and any associated; and
- rules for determining which ‘currency’ (see paragraph 832 above) applies where a service is specified in more than one way, either for the purposes of determining the prices payable under the national tariff, or under any rules for the purposes of determining the prices payable for services where such prices are to be determined locally, and associated guidance.

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

881. If agreement cannot be reached between Monitor and the NHS Commissioning Board in respect of any of the components of the national tariff to be published under this section, those matters will be determined by independent arbitration .
882. Once agreement has been reached, Monitor must notify all commissioners, relevant providers and others it considers appropriate (for example providers not currently providing NHS services) of the proposed national tariff and the proposals for the components as required or otherwise provided for in this section. The proposals must also be published (*subsection (2)*). There must be a 28-day consultation period, during which objections could be made (*subsection (13)*).