

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 - Regulation of Health and Adult Social Care Services**

#### *Chapter 6 – Financial assistance in special administration cases*

#### **Levy on providers**

#### *Section 142 – Responses to consultation*

973. This section details how Monitor is required to handle objections to the proposals raised in response to the consultation. Monitor may not implement the proposals unless certain conditions set out in *subsection (2)* are met or, if the conditions are not met, Monitor has made a reference to the Competition Commission.
974. The conditions in subsection (2) are that the percentage of providers objecting to the proposals (the objection percentage) and, where regulations provide for this, the percentage of providers objecting to the proposals, weighted by their share of supply (the share of supply percentage) are both less than percentages prescribed by the Secretary of State in regulations. Those regulations may also provide for the method to be used in determining what is meant by “share of supply” in relation to a provider (*subsection (8)*).
975. If the conditions are not met and a reference to the Competition Commission is made, it must be made in terms that require the Commission to investigate and report on certain matters, specified in *subsection (4)*. Those matters are whether Monitor has failed to give sufficient weight to the matters to which it must have regard under section 66 in carrying out its functions and, if so, whether that failure does or might operate against the public interest and if it does, whether that could be remedied or prevented by changes to the proposals
976. **Schedule 10** applies to references made under this section, subject to the modifications set out in *subsection (5)*. The Schedule sets out the requirements and processes surrounding the reference to the Competition Commission and the Competition Commission’s determination of any reference. The Schedule also provides the process for modification of licence conditions following references to the Competition Commission – this is covered in these Notes above (after the notes on section 101).