



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 8 **E+W**

#### THE NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELLENCE

##### *Functions: other*

#### **245 Failure by NICE to discharge any of its functions **E+W****

- (1) The Secretary of State may give a direction to NICE if the Secretary of State considers that—
  - (a) NICE—
    - (i) is failing or has failed to discharge any of its functions, or
    - (ii) is failing or has failed properly to discharge any of its functions, and
  - (b) the failure is significant.
- (2) A direction under subsection (1) may direct NICE to discharge such of those functions, and in such manner and within such period or periods, as may be specified in the direction.
- (3) If NICE fails to comply with a direction under subsection (1), the Secretary of State may—
  - (a) discharge the functions to which it relates, or
  - (b) make arrangements for any other person to discharge them on the Secretary of State's behalf.
- (4) Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State must publish reasons for doing so.
- (5) For the purposes of this section, a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred.

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**Changes to legislation:** Health and Social Care Act 2012, Section 245 is up to date with all changes known to be in force on or before 22 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

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#### Commencement Information

- I1** S. 245 partly in force; s. 245 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I2** S. 245 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)

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[View outstanding changes](#)

**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\(5\)](#)