

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 1 – Monitor

Section 69 - Duty to carry out impact assessments

695. This section requires Monitor to carry out and publish an impact assessment, or publish reasons for not carrying out such an assessment, before taking certain actions. Where Monitor carries out an impact assessment, it must allow representations on the proposal. The requirements apply in relation to anything Monitor intends to do that is likely to have a significant impact on patients, providers or the public, or involve either a major change in the activities Monitor undertakes or a major changes in the standard conditions for holding a licence. The section does not apply to the exercise by Monitor of its functions under Chapter 2 (competition), including when carrying out individual investigations.
696. *Subsections (5) and (6)* provide for what the impact assessment must contain and the form it should take. An impact assessment must set out how a particular action was intended to fulfil Monitor’s general duties, including what the particular action was intended to achieve and explain why. Where relevant an impact assessment would need to explain why Monitor could not secure the desired outcome by exercising its powers under the Competition Act 1998 or the Enterprise Act 2002. Monitor may decide what else the assessment should include, taking account of general guidance on impact assessments as appropriate.
697. *Subsections (7) and (8)* provide for consultation on impact assessments. The impact assessment must specify a consultation period of not less than 28 days. Monitor cannot implement the proposed action until the consultation period has ended. *Subsection (9)* also makes it clear that the duty to consult under this section is in addition to any other obligations Monitor has to consult about a particular issue although the consultations may take place at the same time.
698. *Subsection (10)* stipulates the way in which Monitor would be required to report upon the assessments it had carried out in each financial year.