

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 3 – Licensing

Licence conditions

Section 94 - Standard conditions

775. This section requires Monitor to set and publish the standard licence conditions. Standard conditions might include basic requirements necessary to support the regulator in exercising its functions, such as submitting the information about service provision that Monitor needs to set prices effectively.
776. Before determining the first set of standard conditions, Monitor must publish its draft standard conditions and consult the persons listed in *subsection (8)*.
777. *Subsections (2) to (6)* allow Monitor to set different standard conditions for different types of licences by reference to the nature of the provider, the services provided or the geographical area in which services are provided. Monitor could use this power to set additional licence conditions to apply to certain providers to ensure the continuity of certain services provided by them. For example, Monitor may set particular requirements on foundation trusts to ensure they are well governed, consistent with foundation trusts' duty to exercise their functions effectively, efficiently and economically, as necessary conditions of their continued ability to provide NHS services (see section 164). The intention is to enable Monitor to differentiate standard licence conditions, where necessary, to protect and promote patients' interests and to reflect particular statutory requirements as they may apply to foundation trusts and other types of healthcare provider. In addition, by differentiating standard licence conditions appropriately, Monitor may seek to achieve a fair playing field for providers.
778. *Subsections (4) to (6)* impose constraints on Monitor's ability to set different licence conditions relating to the nature of the provider. Subsection (5) allows for different standard licence conditions to be imposed in relation to governance to take account of differences in the status of different licence holders. Subsection (6) allows for different standard licence conditions to be imposed so as to achieve an equivalent regulatory burden on providers as a result of the licence, for example, where different standard licence conditions are appropriate to take account of differences in the burdens to which different types of provider are subject.
779. The Secretary of State is given the power in *subsection (10)* to reject Monitor's proposed first set of standard conditions, as a whole rather than as individual conditions.