

*Changes to legislation: There are currently no known outstanding effects for the Health and Care Act 2022, SCHEDULE 6. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 6

Section 46

#### INTERVENTION POWERS OVER THE RECONFIGURATION OF NHS SERVICES

##### Commencement Information

- I1** Sch. 6 not in force at Royal Assent, see [s. 186\(6\)](#)  
**I2** [Sch. 6](#) in force at 31.1.2024 for specified purposes by [S.I. 2023/1431, reg. 4\(c\)](#)

In the National Health Service Act 2006, after Schedule 10 insert—

#### “SCHEDULE 10A

Section 68A

#### INTERVENTION POWERS IN RELATION TO THE RECONFIGURATION OF NHS SERVICES

##### Definitions

- 1 In this Schedule—
- “NHS commissioning body” means NHS England or an integrated care board;
  - “NHS services” means services provided as part of the health service in England;
  - “NHS trust” means an NHS trust established under section 25;
  - “reconfiguration of NHS services” means a change in the arrangements made by an NHS commissioning body for the provision of NHS services where that change has an impact on—
    - (a) the manner in which a service is delivered to individuals (at the point when the service is received by users), or
    - (b) the range of health services available to individuals.

##### Duty to notify Secretary of State of reconfiguration proposals

- 2 (1) If an NHS commissioning body proposes a notifiable reconfiguration of NHS services it must notify the Secretary of State.
- (2) For the purposes of this paragraph a reconfiguration of NHS services is “notifiable” if it is of a description specified in regulations.

##### Power to call-in proposal for reconfiguration

- 3 (1) The Secretary of State may give an NHS commissioning body a direction calling in any proposal by the body for the reconfiguration of NHS services.
- (2) Where a direction is given under sub-paragraph (1), the Secretary of State—

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- (a) may, within the period of 6 months beginning with the date of the direction, take any decision in relation to the proposal that could have been taken by the NHS commissioning body, and
  - (b) must notify the NHS commissioning body once the Secretary of State has finished considering the proposal.
- (3) The power of the Secretary of State to take decisions under sub-paragraph (2)(a) includes—
- (a) power to decide whether a proposal should, or should not, proceed, or should proceed in a modified form;
  - (b) power to decide particular results to be achieved by the NHS commissioning body in taking decisions in relation to the proposal;
  - (c) power to decide procedural or other steps that should, or should not, be taken in relation to the proposal;
  - (d) power to retake any decision previously taken by the NHS commissioning body.
- (4) The Secretary of State must, before acting under sub-paragraph (2), give each of the following an opportunity to make representations to the Secretary of State in relation to the proposal—
- (a) the NHS commissioning body,
  - (b) if the NHS commissioning body is an integrated care board, NHS England,
  - (c) each local authority (within the meaning of section 2B) to whose area the proposed reconfiguration of NHS services relates, and
  - (d) any other person that the Secretary of State considers appropriate.
- (5) The Secretary of State must—
- (a) publish any decision under sub-paragraph (2)(a) together with an explanation of the reasons for taking it, and
  - (b) notify the NHS commissioning body of the decision and the reasons.
- (6) The Secretary of State must publish a summary of any representations made under sub-paragraph (4).
- 4 (1) This paragraph applies where the Secretary of State gives a direction under paragraph 3(1) calling in a proposal for the reconfiguration of NHS services.
- (2) Until notified that the Secretary of State has finished considering the proposal, the NHS commissioning body must not take further steps in relation to a proposal except to such extent (if any) as may be permitted by the direction.
- (3) Once notified that the Secretary of State has finished considering the proposal, the NHS commissioning body must give effect to any decision of the Secretary of State under paragraph 3(2)(a) in relation to the proposal.

#### **Power to require consideration of proposals for reconfiguration**

- 5 (1) The Secretary of State may direct an NHS commissioning body to consider a reconfiguration of NHS services.
- (2) The Secretary of State must publish any direction under this paragraph, together with an explanation of the reasons for giving it.

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### **Duties to provide information and other assistance**

- 6 An NHS commissioning body, NHS trust or NHS foundation trust must give the Secretary of State any information or other assistance that the Secretary of State requires it to give for the purposes of carrying out any functions under this Schedule.

### **Guidance**

- 7 (1) The Secretary of State must publish guidance for NHS commissioning bodies, NHS trusts and NHS foundation trusts about—
- (a) the exercise of their functions under this Schedule, and
  - (b) how the Secretary of State proposes to exercise the Secretary of State's functions under this Schedule.
- (2) NHS commissioning bodies, NHS trusts and NHS foundation trusts must have regard to any guidance published under sub- paragraph (1).”

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