



National Health Service Act 2006

2006 CHAPTER 41

PART 1

PROMOTION AND PROVISION OF THE HEALTH SERVICE IN ENGLAND

[^{F1}Exercise of Secretary of State's public health functions]

Textual Amendments

- F1** S. 7A and cross-heading inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 22, 306\(4\)](#); [S.I. 2012/1831](#), [art. 2\(2\)](#); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

[^{F2}7A. Exercise of Secretary of State's public health functions

- (1) The Secretary of State may arrange for any of the public health functions of the Secretary of State to be exercised by one or more relevant bodies.
- (2) In this section “relevant body” means—
 - (a) NHS England,
 - (b) an integrated care board,
 - (c) a local authority (within the meaning of section 2B),
 - (d) a combined authority, or
 - [^{F3}(da) a combined county authority,] or
 - (e) such other body as may be prescribed.
- (3) Arrangements under this section may be made on such terms as may be agreed between the parties including—
 - (a) terms as to payment;
 - (b) terms prohibiting or restricting a relevant body from making delegation arrangements in relation to a function that is exercisable by it by virtue of arrangements under this section.

Changes to legislation: National Health Service Act 2006, Cross Heading: Exercise of Secretary of State's public health functions is up to date with all changes known to be in force on or before 18 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

- (4) In subsection (3)(b) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (5) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a relevant body of any function by virtue of this section are enforceable by or against that body (and no other person).
- (6) The reference in subsection (1) to the public health functions of the Secretary of State includes any functions of the Secretary of State exercisable in connection with those functions (including the powers conferred by section 12).]

Textual Amendments

- F2** S. 7A substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 42**, 186(6); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F3** S. 7A(2)(da) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [s. 255\(2\)\(c\)](#), [Sch. 4 para. 163](#) (with [s. 247](#))

[^{F4}7B] Directions requiring NHS bodies to exercise public health functions

- (1) The Secretary of State may by direction provide for any of the public health functions of the Secretary of State to be exercised by one or more relevant bodies.
- (2) In this section “relevant body” means—
 - (a) NHS England, or
 - (b) an integrated care board.
- (3) A direction under subsection (1) may include provision prohibiting or restricting the relevant body from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (4) In subsection (3) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (5) The Secretary of State may make payments to a relevant body in respect of the exercise by it of a function by virtue of a direction under subsection (1).
- (6) The Secretary of State may give directions to an integrated care board as to the exercise by it of any functions by virtue of this section.
- (7) For power to give directions to NHS England as to the exercise of functions, see section 13ZC.
- (8) As soon as reasonably practicable after giving a direction under subsection (1) or (6), the Secretary of State must publish it.
- (9) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a relevant body of any function by virtue of this section are enforceable by or against it (and no other person).
- (10) The reference in subsection (1) to the public health functions of the Secretary of State includes any functions of the Secretary of State exercisable in connection with those functions (including the powers conferred by section 12).]

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Textual Amendments

- F4** S. 7B inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 43(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with [regs. 13, 29, 30](#))

[^{F5}7C **Power of direction: investigation functions**

- (1) The Secretary of State may direct—
 - (a) NHS England, or
 - (b) any other public body,to exercise any of the investigation functions which are specified in the direction.
- (2) A direction under subsection (1) may include provision prohibiting or restricting the body directed from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (3) In subsection (2) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (4) The Secretary of State may make payments to NHS England or any other body in respect of the exercise by it of a function by virtue of a direction under subsection (1).
- (5) The Secretary of State may give directions to any body on whom functions are conferred by virtue of subsection (1)(b) as to the exercise of those functions.
- (6) For power to give directions to NHS England as to the exercise of functions, see section 13ZC.
- (7) As soon as reasonably practicable after giving a direction under subsection (1) or (5), the Secretary of State must publish it.
- (8) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by NHS England or any other body of any function by virtue of this section are enforceable by or against it (and no other person).
- (9) In this section “the investigation functions” are functions which, immediately before the coming into force of section 36 of the Health and Care Act 2022, were exercised by the Special Health Authority called the National Health Service Trust Development Authority pursuant to—
 - (a) the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016 made under sections 7 and 8 of the National Health Service Act 2006, or
 - (b) the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) (Additional Investigatory Functions in respect of Maternity Cases) Directions 2018 made under sections 7 and 8 of the National Health Service Act 2006.

Textual Amendments

- F5** Ss. 7C-7E inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 44(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with [regs. 13, 29, 30](#))

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7D Transfer schemes in connection with a direction under section 7C

- (1) The Secretary of State may, in connection with a direction under section 7C, make one or more transfer schemes.
- (2) A “transfer scheme” is a scheme for the transfer to NHS England or any other public body of any property, rights or liabilities relating to the discharge of functions pursuant to any directions made by the Secretary of State under the power conferred by section 7C.
- (3) The things that may be transferred under a transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (4) A transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by, or on behalf of or in relation to the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the TUPE regulations;
 - (g) make other consequential, supplementary, incidental or transitional provision.
- (5) A transfer scheme may provide—
 - (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (6) In subsection (4)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (7) For the purposes of this section—
 - (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.
- (8) For the purposes of subsection (7)(a)—
 - (a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual’s employment in the civil service are to be regarded as constituting the terms of the contract of employment.

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Textual Amendments

F5 Ss. 7C-7E inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 44(2), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

7E Transfer schemes under section 7D: taxation

- (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—
 - (a) anything transferred under a scheme under section 7D, or
 - (b) anything done for the purposes of, or in relation to, a transfer under such a scheme.
- (2) The provision which may be made under subsection (1)(a) includes in particular provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;
 - (b) anything transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred.
- (3) The provision which may be made under subsection (1)(b) includes in particular provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of or in relation to the transfer;
 - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) In this section references to the transfer of property include the grant of a lease.
- (5) In this section—

“relevant tax” means income tax, corporation tax, capital gains tax, value added tax, stamp duty or stamp duty reserve tax;

“tax provision” means a provision of an enactment about a relevant tax.]

Textual Amendments

F5 Ss. 7C-7E inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 44(2), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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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):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)