

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### TERRITORIAL EXTENT AND APPLICATION

39. [Section 308](#) sets out the territorial extent of the Act.
40. Most of the provisions contained in the Act extend to England and Wales only, but apply only to England. Some provisions apply only to Wales, others extend to the whole of the UK.
41. Any amendment, repeal or reversal of legislation that is provided for in this Act has the same extent as the original legislation.

#### *Territorial application: Northern Ireland*

42. Certain provisions of the Act extend to Northern Ireland, in addition to England and Wales and, in most cases, Scotland. Certain key provisions are highlighted in the following paragraphs.
43. Provisions in Part 2 that extend to Northern Ireland (as well as England, Wales and Scotland):
- abolish the Health Protection Agency (a body with a UK wide remit) and repeal the Health Protection Agency Act 2004 (section 56);
  - make provision for the Department of Health, Social Services and Public Safety in Northern Ireland (DHSSPS) to exercise biological substances functions jointly with the Secretary of State, or separately (section 57);
  - make provision for the Secretary of State to exercise radiation protection functions in relation to Northern Ireland (section 58);
  - confer functions on the DHSSPS in relation to radiation protection (section 58) to the extent that they are within devolved competence; and
  - provide for a UK wide duty of co-operation between bodies exercising functions in relation to health protection (section 60).
44. Certain provisions of Part 7, concerning the regulation of health and social care workers, extend and apply to Northern Ireland (as well as England and Wales and Scotland), as they relate to bodies with functions in relation to Northern Ireland.
45. [Section 249](#) introduces Schedule 17, regarding the National Institute for Health and Care Excellence (NICE), which includes consequential amendments to legislation that extends to Northern Ireland, in addition to England and Wales and Scotland.
46. [Section 252](#) introduces Schedule 18, regarding the Health and Social Care Information Centre, which includes consequential amendments to legislation that extends to Northern Ireland (for example, the Northern Ireland Assembly Disqualification Act 1975), in addition to England and Wales and Scotland.

*These notes refer to the Health and Social Care Act 2012  
(c.7) which received Royal Assent on 27 March 2012*

47. [Section 295](#) and Schedule 21 in Part 11 amend legislation relating to the health service in Northern Ireland. These provisions make consequential and other amendments to this legislation, including in relation to the arrangements between Northern Ireland health bodies and health bodies in England.
48. Some of these provisions relate to matters that are devolved in Northern Ireland. Westminster will not normally legislate with regard to devolved matters in Northern Ireland without the consent of the Northern Ireland Assembly. As there are provisions in this Act relating to such matters, the consent of the Northern Ireland Assembly has been granted through a legislative consent motion.

***Territorial application: Scotland***

49. Certain provisions of the Act extend to Scotland, in addition to England and Wales and, in most cases, Northern Ireland. Certain key provisions are highlighted in the following paragraphs.
50. Provisions in Part 2 that extend to Scotland (as well as England and Wales and Northern Ireland):
  - abolish the Health Protection Agency (a body with a UK wide remit) and repeal the Health Protection Agency Act 2004 (section 56)
  - make provision for the Secretary of State and the DHSSPS to exercise biological substances functions jointly or separately in relation to Scotland (section 57);
  - make provision for the Secretary of State to exercise radiation protection in relation to Scotland (section 58);
  - confer functions on Scottish Ministers in relation to radiation protection (section 58);
  - repeal the AIDS (Control) Act 1987 which extends to Scotland (section 59);
  - provide a UK wide duty of co-operation between bodies exercising functions in relation to health protection (section 60).
51. [Sections 128 to 133](#) in Chapter 5 of Part 3, concerning health special administration extend to Scotland (as well as England and Wales), given that the law of insolvency is generally a reserved matter.
52. Certain provisions of Part 7, concerning the regulation of health and social care workers, extend and apply to Scotland (as well as England and Wales and Northern Ireland) as they relate to bodies with functions in relation to Scotland.
53. [Section 249](#) introduces Schedule 17, regarding the National Institute for Health and Care Excellence (NICE), which includes minor and consequential amendments to legislation that extends to Scotland (as well as England and Wales and Northern Ireland).
54. [Section 252](#) introduces Schedule 18, regarding the Health and Social Care Information Centre, which includes consequential amendments to legislation that extends to Scotland (for example, the Employment Rights Act 1996), in addition to England and Wales and Northern Ireland.
55. [Section 296](#) and Schedule 21 in Part 11 amend legislation relating to the health service in Scotland, (the National Health Service (Scotland) Act 1978) to make consequential and other amendments, including provision for arrangements between health bodies in Scotland and health bodies in England.
56. Some of these provisions fall within the terms of the Sewel Convention. The effect of the Sewel Convention is that Westminster will not normally legislate with regard to

devolved matters in Scotland without the consent of the Scottish Parliament. This has now been given through a legislative consent motion.

***Territorial application: Wales***

57. A number of the provisions in the Act apply in Wales as well as England, or apply in Wales only. The Welsh Assembly Government have been consulted on these provisions and have provided their consent where necessary.
58. In Part 1, sections 35 to 37 on functions relating to fluoridation of water and sections 38 to 45 that amend the Mental Health Act 1983 include provision that extends and applies to England and Wales. So too does the provision in sections 286 and 287 concerning information relating to births and deaths and section 299 on supervised community treatment.
59. Provisions in Part 2 that extend and apply to England and Wales;
  - abolish the Health Protection Agency (a body with a UK wide remit) and repeal the Health Protection Agency Act 2004 (section 56);
  - make provision for the Secretary of State and the DHSSPS to exercise jointly or separately biological substances functions in relation to Wales (section 57);
  - make provision for the Secretary of State to exercise radiation protection functions in relation to Wales (section 58);
  - repeal the AIDS (Control) Act 1987 which extends to England and Wales (section 59); and
  - provide for a UK wide duty of co-operation between bodies exercising functions in relation to health protection (section 60).
60. [Sections 128 to 133](#) in Chapter 5 of Part 3, concerning health special administration apply to a company in Wales which provides services to the health service in England.
61. [Part 7](#), concerning the regulation of health and social care workers, applies in relation to Wales (as well as England, Northern Ireland and Scotland) so far as it relates to bodies with functions in relation to Wales.
62. Provisions in Parts 8 and 10, regarding changes to the Department of Health's arm's-length bodies, extend and apply to England and Wales. The dissolution under section 248 of the predecessor body to the National Institute for Health and Care Excellence applies to Wales, as that predecessor body is a Special Health Authority established in relation to England and Wales. Schedule 17, introduced by section 249, includes consequential amendments to legislation that extends to Wales in addition to England, Scotland and Northern Ireland. In Part 10, the abolition of the Appointments Commission applies to Wales.
63. [Section 297](#) and Schedule 21 in Part 11 amend legislation relating to the health service in Wales, (the National Health Service (Wales) Act 2006) to make consequential and other amendments, including provision for arrangements between health bodies in Wales and health bodies in England.