

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Abolition of certain public bodies etc

Section 278 - The Alcohol Education and Research Council

1466. This section provides for the abolition of the Alcohol Education and Research Council (AERC).
1467. The AERC was established by section 6 of the Licensing (Alcohol Education and Research) Act 1981. It was responsible for administering the Alcohol Education and Research fund, established by section 7 of the 1981 Act. The AERC used the fund to finance projects within the United Kingdom for education and research on alcohol related issues.
1468. *Subsection (1)* abolishes the AERC. *Subsection (2)* repeals the Licensing (Alcohol Education and Research) Act 1981, which established the AERC. Before it was abolished, the AERC used its powers to transfer the whole of the Alcohol Education and Research fund to a new separate charitable body. The fund was transferred to the new body, Alcohol Research UK, in March 2011. The new charitable body continues to use the fund to finance projects within the United Kingdom for research on alcohol related issues.
1469. *Subsection (3)* gives effect to Part 1 of Schedule 20 (part 10: consequential amendments and savings) which removes references to AERC in other primary legislation and provides for the Secretary of State to be able to carry out any activity undertaken by or duties required of or in relation to the AERC before, during or after its abolition; and for a report to be prepared on the abolition of the Council up to the date of abolition.

Section 279 – The Appointments Commission

1470. This section provides for the abolition of the Appointments Commission. Originally established as the NHS Appointments Commission, a Special Health Authority, in 2001, it was established by section 57 of the Health Act 2006 as a body corporate and executive non-departmental public body in October 2006, changing its name to the Appointments Commission to reflect new powers to provide recruitment and selection services to all Government departments and NHS Foundation Trusts. The section also gives effect to Part 2 of Schedule 20, which makes consequential amendments to legislation and provides for the Secretary of State to be able to carry out any activity undertaken by or duties required of or in relation to the Appointments Commission before, during or after its abolition.
1471. The main role of the Appointments Commission was to appoint Chairs and Non-Executive Directors to local NHS organisations and the majority of the Department's national bodies, under direction of the Secretary of State for Health. It also provided services to other Governmental organisations.

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

1472. There will be no local Chair and Non-Executive Director appointments to PCTs and SHAs, and eventually none to NHS trusts. This along with fewer national public appointments makes the Appointments Commission no longer viable. Remaining national appointments will be handled by the Department of Health, in line with the practice of other government departments.

Section 280 – The National Information Governance Board for Health and Social Care

1473. This section provides for the abolition of the National Information Governance Board for Health and Social Care (NIGB), and confers its functions on the Care Quality Commission.
1474. NIGB was established as a statutory body by section 250A of the NHS Act inserted by the Health and Social Care Act 2008. Its overall role is to support improvements to information governance practice in health and social care.
1475. *Subsections (1) and (2)* of section 280 abolish the NIGB and remove the sections of the NHS Act that established it.
1476. *Subsection (3)* inserts a new section 20A into the Health and Social Care Act 2008 to provide the Care Quality Commission with functions to monitor the practice followed by registered providers in relation to the processing of information relating to patient and adult social care service users, and to keep the NHS Commissioning Board and Monitor informed about such practice.
1477. The new section 20A also places a duty on the Care Quality Commission, in exercising these functions, to seek to improve the practice followed by registered providers in relation to such processing. It defines the information relevant to these functions, the type of activity, and to whom the function applies.
1478. *Subsections (4) and (5)* make changes to existing duties:
- The Care Quality Commission's existing duty to consult the NIGB on its internal code of practice for managing confidential personal information before publication is changed to a duty to consult the NHS Commissioning Board (*subsection (4)*). Under provisions in Part 1, the NHS Commissioning Board is charged with developing standards and guidance in this area.
 - The Secretary of State's existing duty to consult the NIGB before making any new regulations under section 251 of the NHS Act (permitting confidential patient information to be processed for certain purposes without consent) is changed to a duty to consult the Care Quality Commission (*subsection (5)*). As the Care Quality Commission has other functions only in relation to England it will not consider Welsh interests when consulted, therefore section 271 of the NHS Act (setting out the territorial limit of the Act) is also amended.
1479. *Subsections (6) and (7)* require the Care Quality Commission to appoint a National Information Governance Committee to advise and assist the Commission in discharging the functions conferred on it by this section. This committee is to be in place until 31 March 2015.
1480. The section also gives effect to Part 3 of Schedule 20 which makes consequential amendments and provides for the Secretary of State to be able to carry out any activity undertaken by or duties required of or in relation to the NIGB before, during, or after its abolition; and for a report to be prepared up to the date of abolition.

Section 281 - The National Patient Safety Agency

1481. This section provides for the abolition of the National Patient Safety Agency (NPSA).

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1482. The NPSA was established as a Special Health Authority in 2001. Its core function is to improve the safety of NHS care by promoting a culture of reporting and learning from adverse events.
1483. Provision is made in Part 1 of the Act for the NHS Commissioning Board to have responsibility for the functions currently carried out by the NPSA in respect of reporting and learning from patient safety incidents.
1484. The National Clinical Assessment Service¹ (NCAS) and the National Research Ethics Service² (NRES) are functions of the NPSA being provided for separately and outwith the Act. The Department intends that, over the next few years, NCAS will become a self-funded service and the Department will seek to agree a date with the service for achieving self-sufficiency. The National Institute for Health and Care Excellence (NICE) will act as an interim host for NCAS from its transfer from the NPSA to the end of 2012/13. The future of NRES was considered as part of a wider independent review³ of health research regulation and governance which recommended creating a new body to rationalise the regulation and governance of all health research. The Plan for Growth⁴, published alongside the Budget on 23 March 2011, announced the Government would set up a new body to streamline regulation and improve the cost effectiveness of clinical trials. The Government established the Health Research Authority in December 2011 as a Special Health Authority with NRES at its core.
1485. The function of managing the delivery of the Confidential Enquiries (now known as the Clinical Outcomes Review Programmes – CORP), with the relevant provider organisations transferred in September 2011 from the NSPA to the Healthcare Quality Improvement Partnership (HQIP), who currently host the contract to manage and develop the National Clinical Audit and Patient Outcomes Programme. CORP are a series of independent programmes that assess the quality of care patients receive from the health service. CORP will cover four themes each delivered by a separate organisation (mental health, medical and surgical, child health, and maternal and new born).

Section 282 - The NHS Institute for Innovation and Improvement

1486. This section provides for the abolition of the NHS Institute for Innovation and Improvement, established as a Special Health Authority in 2006.
1487. The NHS Institute supports NHS organisations in analysing their current practices against best practice and implementing changes to achieve better results.
1488. Provision is made in Part 1 of the Act for the NHS Commissioning Board to have a duty to promote innovation and to lead on quality improvement. This represents a partial transfer of the functions of the NHS Institute for Innovation and Improvement.

Section 283 – Standing advisory committees

1489. This section provides for the repeal of section 250 of, and Schedule 19 to, the NHS Act 2006. Section 250 provides for the establishment of standing advisory committees. The Joint Committee on Vaccination and Immunisation (JCVI) is the only remaining standing advisory committee. It continued to be constituted under this section and will continue in existence as a result of the provision made in *subsection (3)* in respect of the National Health Service (Standing Advisory Committees) Order 1981.

1 NCAS supports the resolution of concerns about the performance of individual clinical practitioners to help ensure their practice is safe and valued.

2 NRES protects the rights, safety, dignity and well-being of research participants that are part of clinical trials and other research within the NHS.

3 Academy of Medical Sciences (Jan 2011): *A new pathway for the regulation and governance of health research*

4 HM Treasury, Department for Business Innovation & Skills (2011): *The Plan for Growth*, p92