

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 3 – Licensing

Licensing requirement

Section 83 - Exemption regulations

749. This section provides the power for the Secretary of State to make regulations exempting providers of NHS services from the requirement to hold a licence. The regulations would be subject to the negative resolution procedure in both Houses of Parliament.
750. Individuals, groups of providers, or providers of certain types of health care services could be exempted. Exemptions could be time-limited, and/or conditional. *Subsection (3)* gives examples of the sorts of conditions that could attach to an exemption. For example, a person granted an exemption may be required to comply with any direction given by Monitor about a matter specified in the exemption.
751. The intention is that exemptions will be used to focus licensing on appropriate parts of the health care sector - those where regulation of competition and pricing, or action to support continuity of services is most likely to have a strong positive impact. It is, for example, likely that the licensing regime would cover providers of accident and emergency services and secure mental health services. Exemptions might apply to, for example, smaller providers of family health services such as dentists, optometrists or primary medical care practices.
752. *Subsections (4) to (7)* provide for publication of the Secretary of State's intention to make exemption regulations and for representations to be made. The Secretary of State would have to give specific notice to Monitor, the NHS Commissioning Board, the Care Quality Commission and Healthwatch England (provided for in Chapter 1 of Part 5), as well as publishing more widely the proposal to make regulations, the effect of the regulations and the reasons for them. There must be a minimum period of 28 days, during which representations could be made, before the Secretary of State can make the regulations.
753. *Subsection (8)* provides that persons granted an exemption must be given notice of it. The Secretary of State must also publish exemptions granted.