



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

#### REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

### CHAPTER 6

#### FINANCIAL ASSISTANCE IN SPECIAL ADMINISTRATION CASES

##### *Charges on commissioners*

#### **138 Power to impose charges on commissioners**

[<sup>F1</sup>(1) The Secretary of State may by regulations confer power on NHS England to require integrated care boards to pay charges relating to such of NHS England's regulatory functions as relate to securing the continued provision of health care services for the purposes of the NHS.

(1A) In subsection (1) "regulatory functions", in relation to NHS England, has the meaning given by section 13SB(2) of the National Health Service Act 2006.]

(2) The regulations must provide that the amount of a charge imposed by virtue of this section is to be such amount—

- (a) as may be prescribed, or
- (b) as is determined by reference to such criteria, and by using such method, as may be prescribed.

(3) The regulations must—

- (a) prescribe to whom the charge is to be paid;
- (b) prescribe when the charge becomes payable;
- (c) where the amount of the charge is to be determined in accordance with subsection (2)(b), require [<sup>F2</sup>NHS England] to carry out consultation in accordance with the regulations before imposing the charge;

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**Changes to legislation:** *Health and Social Care Act 2012, Cross Heading: Charges on commissioners is up to date with all changes known to be in force on or before 29 April 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*

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- (d) provide for any amount that is not paid by the time prescribed for the purposes of paragraph (b) to carry interest at the rate for the time being specified in section 18 of the Judgments Act 1838;
  - (e) provide for any unpaid balance and accrued interest to be recoverable summarily as a civil debt (but for this not to affect any other method of recovery).
- (4) Where the person that the regulations prescribe for the purposes of subsection (3)(a) is a provider, the regulations may confer power on [<sup>F3</sup>NHS England] to require the provider to pay [<sup>F3</sup>NHS England] the amount of the charge in question in accordance with the regulations.
- [<sup>F4</sup>(5) Before making regulations under this section, the Secretary of State must consult NHS England.]
- (6) Regulations under this section may apply with modifications provision made by sections 141 to 143 in relation to charges imposed by virtue of this section.

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**Textual Amendments**

- F1** S. 138(1)(1A) substituted for s. 138(1) (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 82(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
  - F2** Words in s. 138(3)(c) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 82(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
  - F3** Words in s. 138(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 82(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
  - F4** S. 138(5) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 82(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
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**Commencement Information**

- I1** S. 138 partly in force; s. 138 in force for specified purposes at Royal Assent, see s. 306(1)(d)

**Changes to legislation:**

Health and Social Care Act 2012, Cross Heading: Charges on commissioners is up to date with all changes known to be in force on or before 29 April 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.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

**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):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251 substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)