



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

Levy on providers

PROSPECTIVE

139 Imposition of levy

- (1) The power under section 135(2) includes, in particular, power to impose a levy on providers for each financial year.
- (2) Before deciding whether to impose a levy under this section for the coming financial year, [^{F1}NHS England] must estimate—
 - (a) the amount that will be required for the purpose of providing financial assistance in accordance with this Chapter,
 - (b) the amount that will be collected from [^{F2}integrated care boards] by way of charges imposed by virtue of section 138 during that year, and
 - (c) the amount that will be standing to the credit of the fund at the end of the current financial year.
- (3) Before the start of a financial year in which [^{F3}NHS England] proposes to impose a levy under this section, it must determine—
 - (a) the factors by reference to which the rate of the levy is to be assessed,
 - (b) the time or times by reference to which those factors are to be assessed, and

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- (c) the time or times during the year when the levy, or an instalment of it, becomes payable.
- (4) Where the determinations under subsection (3) reflect changes made to the factors by reference to which the rate of the levy is to be assessed, the notice under section 143(1)(b) must include an explanation of those changes.
- (5) A levy under this section may be imposed at different rates for different providers.

Textual Amendments

- F1** Words in s. 139(2) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 83\(2\)\(a\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** Words in s. 139(2)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 83\(2\)\(b\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Words in s. 139(3) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 83\(3\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

140 Power of Secretary of State to set limit on levy and charges

- (1) Before the beginning of each financial year, the Secretary of State may, with the approval of the Treasury, specify by order—
- (a) the maximum amount that [^{F4}NHS England] may raise from levies it imposes under section 139 for that year, and
 - (b) the maximum amount that it may raise from charges it imposes by virtue of section 138 for that year.
- (2) Where the Secretary of State makes an order under this section, [^{F5}NHS England] must secure that the levies and charges for that year are at a level that [^{F5}NHS England] estimates will, in each case, raise an amount not exceeding the amount specified for that case in the order.

Textual Amendments

- F4** Words in s. 140(1)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 84](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F5** Words in s. 140(2) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 84](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

- I1** S. 140 partly in force; s. 140 in force for specified purposes at Royal Assent, see s. 306(1)(d)

PROSPECTIVE

141 Consultation

- (1) This section applies where [^{F6}NHS England] is proposing to impose a levy under section 139 for the coming financial year and—
- (a) has not imposed a levy under that section for the current financial year or any previous year,

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- (b) has been imposing the levy for the current financial year but proposes to make relevant changes to it for the coming financial year, or
 - (c) has been imposing the levy for the current financial year and the financial year preceding it, but has not been required to serve a notice under this section in respect of the levy for either of those years.
- (2) A change to a levy is relevant for the purposes of subsection (1)(b) if it is a change to the factors by reference to which the rate of the levy is to be assessed.
- (3) Before making the determinations under section 139(3) in respect of the levy, [^{F7}NHS England] must send a notice to—
- (a) the Secretary of State,
 - ^{F8}(b)
 - ^{F9}(c) each integrated care board,
 - (d) each potentially liable provider, and
 - (e) such other persons as it considers appropriate.
- (4) [^{F10}NHS England] must publish a notice that it sends under subsection (3).
- (5) In a case within subsection (1)(a) or (c), the notice must state—
- (a) the factors by reference to which [^{F11}NHS England] proposes to assess the rate of the levy,
 - (b) the time or times by reference to which it proposes to assess those factors, and
 - (c) the time or times during the coming financial year when it proposes that the levy, or an instalment of it, will become payable.
- (6) In a case within subsection (1)(b), the notice must specify the relevant changes [^{F12}NHS England] proposes to make.
- (7) A notice under this section must specify when the consultation period in relation to the proposals ends; and for that purpose, the consultation period is the period of 28 days beginning with the day on which the notice is published under subsection (4).
- (8) In this section ^{F13}... a “potentially liable provider” means a provider on whom [^{F14}NHS England] is proposing to impose the levy for the coming financial year (regardless of the amount (if any) that the provider would be liable to pay as a result of the proposal).

Textual Amendments

- F6** Words in s. 141(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 85(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F7** Words in s. 141(3) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 85(3)(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F8** S. 141(3)(b) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 85(3)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F9** S. 141(3)(c) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 182**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F10** Words in s. 141(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 85(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F11** Words in s. 141(5)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 85(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F12** Words in s. 141(6) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 85(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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- F13** Words in s. 141(8) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 85(6)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F14** Words in s. 141(8) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 5 para. 85(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

^{F15}142 Responses to consultation

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Textual Amendments

- F15** S. 142 omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 85(7)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

PROSPECTIVE

143 Amount payable

- (1) [^{F16}NHS England] must—
 - (a) calculate the amount which each provider who is to be subject to a levy under section 139 for a financial year is to be liable to pay in respect of that year, and
 - (b) notify the provider of that amount and the date or dates on which it, or instalments of it, will become payable.
- (2) If the provider is to be subject to the levy for only part of the financial year, it is to be liable to pay only the amount which bears to the amount payable for the whole financial year the same proportion as the part of the financial year for which the provider is to be subject to the levy bears to the whole financial year.
- (3) The amount which a provider is liable to pay may be zero.
- (4) Subsection (5) applies if, during a financial year in which [^{F17}NHS England] is imposing a levy under section 139, it becomes satisfied that the risk of a provider who is subject to the levy going into special administration has changed by reference to what it was—
 - (a) at the start of the year, or
 - (b) if [^{F17}NHS England] has already exercised the power under subsection (5) in relation to the levy in the case of that provider, at the time it did so.
- (5) [^{F17}NHS England] may notify the provider that [^{F17}NHS England] proposes to adjust the amount that the provider is liable to pay so as to reflect the change; and the notice must specify the amount of the proposed adjustment.
- (6) Following the expiry of the period of 28 days beginning with the day after that on which [^{F17}NHS England] sends the notice, it may make the adjustment.
- (7) In a case within subsection (2), subsection (4) has effect as if references to the financial year were references to the part of the financial year for which the provider is to be subject to the levy.

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- (8) Where a provider who reasonably believes that [F18NHS England] has miscalculated the amount notified to the provider under subsection (1) or (5) requests [F18NHS England] to recalculate the amount, [F18NHS England] must—
- (a) comply with the request, and
 - (b) send the provider written notice of its recalculation.
- (9) Subsection (8) does not apply to a request to recalculate an amount in respect of a financial year preceding the one in which the request is made.
- (10) If the whole or part of the amount which a person is liable to pay is not paid by the date by which it is required to be paid, the unpaid balance carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838; and the unpaid balance and accrued interest are recoverable summarily as a civil debt (but this does not affect any other method of recovery).

Textual Amendments

- F16** Words in s. 143(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 86**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F17** Words in s. 143(4)-(6) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 86**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F18** Words in s. 143(8) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 86**; 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 :

- 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. 251251ZA 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\(5\)](#)