



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 7

MISCELLANEOUS AND GENERAL

147 Secretary of State's duty as respects variation in provision of health services

After section 12D of the National Health Service Act 2006 insert—

“Miscellaneous

12E Secretary of State's duty as respects variation in provision of health services

- (1) The Secretary of State must not exercise the functions mentioned in subsection (2) for the purpose of causing a variation in the proportion of services provided as part of the health service that is provided by persons of a particular description if that description is by reference to—
 - (a) whether the persons in question are in the public or (as the case may be) private sector, or
 - (b) some other aspect of their status.
- (2) The functions mentioned in this subsection are the functions of the Secretary of State under—
 - (a) sections 6E and 13A, and
 - (b) section 75 of the Health and Social Care Act 2012 (requirements as to procurement, patient choice and competition).”

Status: This is the original version (as it was originally enacted).

148 Service of documents

- (1) A notice required under this Part to be given or sent to or served on a person (“R”) may be given or sent to or served on R—
 - (a) by being delivered personally to R,
 - (b) by being sent to R—
 - (i) by a registered post service, as defined by section 125(1) of the Postal Services Act 2000, or
 - (ii) by a postal service which provides for the delivery of the document to be recorded, or
 - (c) subject to section 149, by being sent to R by an electronic communication.
- (2) Where a notice is sent as mentioned in subsection (1)(b), it is, unless the contrary is proved, to be taken to have been received on the third day after the day on which it is sent.
- (3) Where a notice is sent as mentioned in subsection (1)(c) in accordance with section 149, it is, unless the contrary is proved, to be taken to have been received on the next working day after the day on which it is transmitted.
- (4) In subsection (3) “working day” means a day other than—
 - (a) a Saturday or a Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971.
- (5) A notice required under this Part to be given or sent to or served on a body corporate or a firm is duly given, sent or served if it is given or sent to or served on the secretary or clerk of that body or a partner of that firm.
- (6) For the purposes of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person is—
 - (a) in the case of a person who holds a licence under Chapter 3 who has notified Monitor of an address for service, that address, and
 - (b) in any other case, the address determined in accordance with subsection (7).
- (7) That address is—
 - (a) in the case of a secretary or clerk of a body corporate, the address of the registered or principal office of the body,
 - (b) in the case of a partner of a firm, the address of the principal office of the firm, and
 - (c) in any other case, the last known address of the person.
- (8) In this section and in section 149—

“electronic communication” has the same meaning as in the Electronic Communications Act 2000;

“notice” includes any other document.
- (9) This section is subject to paragraph 4(3) of Schedule 8 (delivery of notice from Secretary of State of suspension of non-executive member of Monitor).

149 Electronic communications

- (1) If a notice required or authorised by this Part to be given or sent by or to a person or to be served on a person is sent by an electronic communication, it is to be treated as given, sent or served only if the requirements of subsection (2) or (3) are met.
- (2) If the person required or authorised to give, send or serve the notice is Monitor or the Competition Commission—
 - (a) the person to whom the notice is given or sent or on whom it is served must have indicated to Monitor or (as the case may be) the Commission the person’s willingness to receive notices by an electronic communication and provided an address suitable for that purpose, and
 - (b) the notice must be sent to or given or served at the address so provided.
- (3) If the person required or authorised to give, send or serve the notice is not Monitor or the Competition Commission, the notice must be given, sent or served in such manner as Monitor may require.
- (4) An indication given for the purposes of subsection (2) may be given generally for the purposes of notices required or authorised to be given, sent or served by Monitor or (as the case may be) the Competition Commission under this Part or may be limited to notices of a particular description.
- (5) Monitor must publish such requirements as it imposes under subsection (3).

150 Interpretation, transitional provision and consequential amendments

- (1) In this Part—
 - “anti-competitive behaviour” has the meaning given in section 64 and references to preventing anti-competitive behaviour are to be read in accordance with subsection (2) of that section;
 - “commissioner”, in relation to a health care service, means the person who arranges for the provision of the service (and “commission” is to be construed accordingly);
 - “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978);
 - “facilities” has the same meaning as in the National Health Service Act 2006 (see section 275 of that Act);
 - “financial year” means a period of 12 months ending with 31 March;
 - “health care” and “health care service” each have the meaning given in section 64;
 - “the NHS” has the meaning given in that section;
 - “prescribed” means prescribed in regulations;
 - “service” includes facility.
- (2) Until section 9 comes into force, the references in this Part to the National Health Service Commissioning Board (other than the reference in section 94(11)(b)) are to be read as references to the NHS Commissioning Board Authority.
- (3) Until the day specified by Secretary of State for the purposes of section 14A of the National Health Service Act 2006, the references in this Part to a clinical commissioning group (other than the reference in section 94(11)(a)) are to be read as references to a Primary Care Trust.

Status: *This is the original version (as it was originally enacted).*

- (4) Until section 181 comes into force, the following provisions in this Part are to be read as if the words “and its Healthwatch England committee” were omitted—
- (a) section 83(4)(c);
 - (b) section 84(5)(a)(iii);
 - (c) section 95(2)(e);
 - (d) section 100(2)(e).
- (5) Schedule 13 (which contains minor and consequential amendments) has effect.