



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

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

### [<sup>F1</sup>CHAPTER 4

#### THE NHS PAYMENT SCHEME

#### [<sup>F1</sup>114A The NHS payment scheme

- (1) NHS England must publish a document, to be known as “the NHS payment scheme”, containing rules for determining the price that is to be payable by a commissioner—
  - (a) for the provision of health care services for the purposes of the NHS;
  - (b) for the provision of services in pursuance of arrangements made by NHS England or an integrated care board in the exercise of any public health functions of the Secretary of State, within the meaning of the National Health Service Act 2006, by virtue of any provision of that Act.
- (2) The commissioner and the provider of services mentioned in subsection (1) must comply with rules under that subsection.
- (3) Rules under subsection (1) may, in particular—
  - (a) specify prices;
  - (b) specify amounts, formulae or other matters on the basis of which prices are to be determined;
  - (c) provide for prices to be determined for, or by reference to, components of services or groups of services;
  - (d) make different provision for different services or provision for some services but not others;
  - (e) make different provision for the same service by reference to different circumstances or areas, different descriptions of provider, or other factors relevant to the provision of the service or the arrangements for its provision;

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**Changes to legislation:** *Health and Social Care Act 2012, Section 114A is up to date with all changes known to be in force on or before 30 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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- (f) confer a discretion on the commissioner of a service or on NHS England.
- (4) Rules under subsection (1) may allow or require a price to be agreed between the commissioner and the provider of a service.
- (5) Rules made by virtue of subsection (4) may—
  - (a) make provision about how the price is to be agreed;
  - (b) allow the agreement to make any provision that could be made by rules by virtue of subsection (3);
  - (c) provide for the publication by the commissioner, the provider or NHS England of information relevant to the agreement.
- (6) For the purpose of securing that the prices payable for the provision of services mentioned in subsection (1)(a) or (b) result in a fair level of pay for providers of those services, NHS England must, in exercising functions under subsection (1), have regard to—
  - (a) differences in the costs incurred in providing those services to persons of different descriptions, and
  - (b) differences between providers with respect to the range of those services that they provide.
- (7) The NHS payment scheme may contain rules relating to the making of payments to the provider of a service for the provision of that service.
- (8) The NHS payment scheme may contain guidance as to the application of rules under subsection (1).
- (9) A commissioner of a service mentioned in subsection (1) must have regard to any such guidance.
- (10) The NHS payment scheme has effect for the period specified in the NHS payment scheme or, where a new edition of the NHS payment scheme takes effect before the end of that period, until that new edition takes effect.]

#### **Textual Amendments**

- F1** Pt. 3 Ch. 4 substituted (1.7.2022 but only for the insertion of ss. 114C, 114D for specified purposes, 1.4.2023 in so far as not already in force) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 10 para. 3](#); S.I. 2022/734, reg. 2(b) (with regs. 13, 29, 30); S.I. 2023/371, reg. 2(d)

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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\(5\)](#)