



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 5

#### PUBLIC INVOLVEMENT AND LOCAL GOVERNMENT

### CHAPTER 1

#### PUBLIC INVOLVEMENT

##### *Local Healthwatch organisations*

#### **188 Transitional arrangements**

- (1) This section applies where arrangements made under section 221 of the Local Government and Public Involvement in Health Act 2007 before the commencement of this Chapter provide for the arrangements to come to an end at a time that falls after that commencement.
- (2) The Secretary of State may make a scheme providing for the transfer from the person with whom the local authority in question made the arrangements of property, rights and liabilities to the Local Healthwatch organisation for the authority's area.
- (3) A scheme under this section may make provision for rights and liabilities relating to an individual's contract of employment; and the scheme may, in particular, make provision which is the same as or similar to provision in the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (4) A scheme under this section may provide for the transfer of property, rights or liabilities—
  - (a) whether or not they would otherwise be capable of being transferred;
  - (b) irrespective of any requirement for consent that would otherwise apply.
- (5) A scheme under this section may create rights, or impose liabilities, in relation to property, rights or liabilities transferred.

---

**Changes to legislation:** Health and Social Care Act 2012, Section 188 is up to date with all changes known to be in force on or before 28 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](#)

---

- (6) A scheme under this section may provide for things done by or in relation to the transferor for the purposes of or in connection with anything transferred to be—
  - (a) treated as done by or in relation to the transferee or its employees;
  - (b) continued by or in relation to the transferee or its employees.
- (7) A scheme under this section may in particular make provision about continuation of legal proceedings.
- (8) A scheme under this section may include provision requiring the local authority to pay compensation to the transferor; and for that purpose the scheme may—
  - (a) impose a duty on the local authority to determine the amount of the compensation;
  - (b) confer power on the Secretary of State to do so.
- (9) A scheme under this section may include supplementary, incidental and consequential provision.
- (10) Omit section 228 of the Local Government and Public Involvement in Health Act 2007 (previous transitional arrangements).

---

**Commencement Information**

- 11** S. 188 partly in force; s. 188 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- 12** S. 188 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

**Changes to legislation:**

Health and Social Care Act 2012, Section 188 is up to date with all changes known to be in force on or before 28 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.

[View outstanding changes](#)

**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\(5\)](#)