



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 3

LICENSING

Licence conditions

96 Limits on [^{F1}NHS England's] functions to set or modify licence conditions

- (1) This section applies to the following functions of [^{F2}NHS England] —
- the duty to determine the standard conditions to be included in each licence under this Chapter or in licences of a particular description (see section 94);
 - the powers to include a special condition in a licence and to modify such a condition (see section 95);
 - the power to modify the standard conditions applicable to all licences, or to licences of a particular description (see section 100).
- (2) [^{F3}NHS England] may only exercise a function to which this section applies—
- for the purpose of regulating the price payable for the provision of health care services for the purposes of the NHS;
 - for the purpose of preventing anti-competitive behaviour in the provision of health care services for those purposes which is against the interests of people who use such services;
 - for the purpose of protecting and promoting the right of patients to make choices with respect to treatment or other health care services provided for the purposes of the NHS;
 - for the purpose of ensuring the continued provision of health care services for the purposes of the NHS;

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- [^{F4}(da) for the purpose of ensuring that decisions relating to the provision of health care services for the purposes of the NHS are made with regard to all their likely effects in relation to the matters referred to in subsection (2A);]
 - (e) for the purpose of enabling health care services provided for the purposes of the NHS to be provided in an integrated way where [^{F5}NHS England] considers that this would achieve one or more of the objectives referred to in subsection (3);
 - (f) for the purpose of enabling the provision of health care services provided for the purposes of the NHS to be integrated with the provision of health-related services or social care services where [^{F6}NHS England] considers that this would achieve one or more of the objectives referred to in subsection (3);
 - [^{F7}(g) for the purpose of enabling, promoting or securing co-operation between providers of health care services for the purposes of the NHS, or between such providers and—
 - (i) NHS bodies, within the meaning of section 72 of the National Health Service Act 2006, or
 - (ii) local authorities in England (and for this purpose “local authority” has the meaning given by section 275(1) of the National Health Service Act 2006);]
 - (h) for purposes connected with the governance of persons providing health care services for the purposes of the NHS;
 - (i) for purposes connected with [^{F8}NHS England’s] functions in relation to the register of NHS foundation trusts required to be maintained under section 39 of the National Health Service Act 2006;
 - (j) for purposes connected with the operation of the licensing regime established by this Chapter;
 - [^{F9}(k) for such other purposes as may be prescribed.]
- [^{F10}(2A) The matters referred to in subsection (2)(da) are—
- (a) the health and well-being of the people of England;
 - (b) the quality of services provided to individuals—
 - (i) by relevant bodies, or
 - (ii) in pursuance of arrangements made by relevant bodies,
 for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England;
 - (c) efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.
- (2B) For the purposes of subsection (2)(da) (as read with subsection (2A))—
- (a) a reference to the effects of decisions in relation to the health and well-being of the people of England includes a reference to the effects of the decisions in relation to inequalities between the people of England with respect to their health and well-being;
 - (b) a reference to effects of decisions in relation to the quality of services provided to individuals includes a reference to the effects of the decisions in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.
- (2C) In subsection (2A) “relevant bodies” means—
- (a) NHS England,

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- (b) integrated care boards,
 - (c) NHS trusts established under section 25, and
 - (d) NHS foundation trusts.]
- (3) The objectives referred to in subsection (2)(e), [F11 and (f)] are—
- (a) improving the quality of health care services provided for the purposes of the NHS (including the outcomes that are achieved from their provision) or the efficiency of their provision,
 - (b) reducing inequalities between persons with respect to their ability to access those services, and
 - (c) reducing inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
- (4) [F12 NHS England] must not exercise a function to which this section applies in a way which it considers would result in a particular licence holder or holders of licences of a particular description being put at an unfair advantage or disadvantage in competing with others in the provision of health care services for the purposes of the NHS as a result of—
- (a) being in the public or (as the case may be) private sector, or
 - (b) some other aspect of its or their status.
- (5) In subsection (2)(f), “health-related services” and “social care services” each have the meaning given in section 62(11).

Textual Amendments

- F1** Words in s. 96 heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** Words in s. 96(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Words in s. 96(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(4)(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** S. 96(2)(da) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 76(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F5** Words in s. 96(2)(e) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(4)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F6** Words in s. 96(2)(f) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(4)(c)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F7** S. 96(2)(g) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 75(4)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F8** Words in s. 96(2)(i) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(4)(d)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F9** S. 96(2)(k) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(4)(e)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F10** S. 96(2A)-(2C) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 76(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F11** Words in s. 96(3) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 75(4)(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F12** Words in s. 96(4) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 60(5)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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Commencement Information

- I1** S. 96 partly in force; s. 96 in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)
- I2** S. 96 in force at 1.11.2012 for specified purposes by [S.I. 2012/2657, art. 2\(2\)](#)
- I3** S. 96(1)(a)(b)(2)-(5) in force at 1.4.2014 in so far as not already in force by [S.I. 2014/39, art. 2\(3\)](#)
- I4** S. 96(1)(c) in force at 1.7.2013 in so far as not already in force by [S.I. 2013/671, art. 2\(4\)](#)

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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\(5\)](#)