



# Care Act 2014

## 2014 CHAPTER 23

### PART 3 **U.K.**

#### HEALTH

### CHAPTER 1 **U.K.**

[<sup>F1</sup>THE EDUCATION AND TRAINING FUNCTIONS OF NHS ENGLAND]

#### Textual Amendments

- F1** Pt. 3 Ch. 1 heading substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(3)** (with reg. 7)

#### *Establishment*

**<sup>F2</sup>96 Health Education England **U.K.****

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#### Textual Amendments

- F2** S. 96 omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(4)** (with reg. 7)

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*Changes to legislation:* Care Act 2014, PART 3 is up to date with all changes known to be in force on or before 18 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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### *National functions*

## 97 **Planning education and training for health care workers etc.** E+W

- (1) [<sup>F3</sup>NHS England] must perform on behalf of the Secretary of State the duty under section 1F(1) of the National Health Service Act 2006 (planning and delivery of education and training), so far as that duty applies to the functions of the Secretary of State under—
- (a) section 63(1) and (5) of the Health Services and Public Health Act 1968 (instruction for officers of hospital authorities etc.),
  - (b) section 258(1) of the National Health Service Act 2006 (university clinical teaching and research), and
  - (c) such other of the enactments listed in section 1F(3) of that Act as regulations may specify.
- (2) Regulations may—
- (a) provide for the duty under section 1F(1) of the National Health Service Act 2006 to apply to such other functions of the Secretary of State as are specified; and
  - (b) impose on [<sup>F4</sup>NHS England] a duty to perform the duty as it applies as a result of provision made under paragraph (a).
- (3) Regulations may provide that the duty under subsection (1) or a duty imposed under subsection (2) may only be performed, or may not be performed, in relation to persons of a specified description.
- <sup>F5</sup>(4) . . . . .
- (5) Regulations may give [<sup>F6</sup>NHS England] further functions relating to education and training for health care workers.
- (6) [<sup>F7</sup>NHS England] may, with the consent of the Secretary of State, carry out other activities relating to—
- (a) education and training for health care workers;
  - (b) the provision of information and advice on careers in the health service.
- (7) After section 63(6) of the Health Services and Public Health Act 1968 insert—
- “(6A) The Secretary of State may make such other payments as the Secretary of State considers appropriate to persons availing themselves of such instruction in England.
- (6B) The Secretary of State may make a payment under subsection (6)(b) or (6A) subject to such terms and conditions as the Secretary of State decides; and the Secretary of State’s power to make such a payment includes power to suspend or terminate the payment, or to require repayment, in such circumstances as the Secretary of State decides.”
- (8) The power of the Secretary of State under section 63(6) or (6A) of the Health Services and Public Health Act 1968 is exercisable concurrently with [<sup>F8</sup>NHS England]; but, in exercising the power, [<sup>F8</sup>NHS England] must have regard to any guidance or other information issued by the Secretary of State about its exercise.
- (9) “Health care workers” means persons in relation to whom [<sup>F9</sup>NHS England’s] duty under section 1F(1) of the National Health Service Act 2006 is to be performed.

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### Textual Amendments

- F3** Words in s. 97(1) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(a)** (with reg. 7)
- F4** Words in s. 97(2) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(a)** (with reg. 7)
- F5** S. 97(4) omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(b)** (with reg. 7)
- F6** Words in s. 97(5) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(a)** (with reg. 7)
- F7** Words in s. 97(6) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(a)** (with reg. 7)
- F8** Words in s. 97(8) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(a)** (with reg. 7)
- F9** Words in s. 97(9) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(5)(c)** (with reg. 7)

### Commencement Information

- I1** S. 97 (1)-(6)(8)(9) in force at 1.4.2015 by [S.I. 2014/3186](#), **art. 2(a)**
- I2** S. 97(7) in force at 1.10.2014 by [S.I. 2014/2473](#), **art. 4(2)(a)**

## 98 Ensuring sufficient skilled health care workers for the health service **E+W**

- (1) [<sup>F10</sup>NHS England] must exercise its functions [<sup>F11</sup>under this Chapter] with a view to ensuring that a sufficient number of persons with the skills and training to work as health care workers for the purposes of the health service is available to do so throughout England.
- (2) Regulations may provide that the duty under subsection (1) may only be performed, or may not be performed, in relation to persons of a specified description.

### Textual Amendments

- F10** Words in s. 98(1) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(6)(a)** (with reg. 7)
- F11** Words in s. 98(1) inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(6)(b)** (with reg. 7)

### Commencement Information

- I3** S. 98 in force at 1.4.2015 by [S.I. 2014/3186](#), **art. 2(b)**

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**99 Quality improvement in education and training, etc. E+W**

- (1) [<sup>F12</sup>NHS England] must exercise its functions [<sup>F13</sup>under this Chapter] with a view to securing continuous improvement—
  - (a) in the quality of education and training provided for health care workers;
  - <sup>F14</sup>(b) .....
- <sup>F15</sup>(2) .....
- <sup>F16</sup>(3) .....
- (4) [<sup>F17</sup>NHS England] must exercise its functions [<sup>F18</sup>under this Chapter] with a view to securing that education and training for health care workers is provided in a way which promotes the NHS Constitution.
- <sup>F19</sup>(5) .....
- (6) “NHS Constitution” has the meaning given by section 1(1) of the Health Act 2009.

**Textual Amendments**

- F12** Words in s. 99(1) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(a)(i)** (with reg. 7)
- F13** Words in s. 99(1) inserted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(a)(ii)** (with reg. 7)
- F14** S. 99(1)(b) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(a)(iii)** (with reg. 7)
- F15** S. 99(2) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(b)** (with reg. 7)
- F16** S. 99(3) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(b)** (with reg. 7)
- F17** Words in s. 99(4) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(c)(i)** (with reg. 7)
- F18** Words in s. 99(4) inserted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(c)(ii)** (with reg. 7)
- F19** S. 99(5) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(7)(b)** (with reg. 7)

**Commencement Information**

- I4** S. 99 in force at 1.4.2015 by S.I. 2014/3186, **art. 2(b)**

**100 Objectives, priorities and outcomes E+W**

- <sup>F20</sup>(1) .....

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- [<sup>F21</sup>(2) The Secretary of State must publish a document (called the “Education Outcomes Framework”) setting outcomes for NHS England to achieve in relation to the education and training to be provided for health care workers.
- (2A) In setting those outcomes, the Secretary of State must have regard to any objectives that are specified in the mandate published under section 13A of the National Health Service Act 2006 and that relate to the education and training of health care workers.]
- (3) The Secretary of State—
- (a) may revise a document published under subsection <sup>F22</sup>... (2), and
  - (b) if the Secretary of State does so, must publish it as revised.
- [<sup>F23</sup>(4) NHS England must publish a document which—
- (a) specifies—
    - (i) the objectives and priorities that NHS England has set, for the period specified in the document, for the planning and delivery of education and training for health care workers, and
    - (ii) how it proposes to achieve those objectives,
  - (b) specifies—
    - (i) the outcomes that NHS England expects to achieve in relation to the education and training of health care workers during that period having regard to those objectives and priorities, and
    - (ii) how it proposes to achieve those outcomes, and
  - (c) specifies how NHS England proposes to achieve the outcomes set by the Secretary of State in accordance with subsection (2).]

(5) In performing the duty under subsection (4), [<sup>F24</sup>NHS England] must have regard, in particular, to its objectives in the longer term in relation to the planning and delivery of education and training to health care workers.

(6) [<sup>F25</sup>NHS England] must ensure that the objectives, priorities and outcomes specified for the purposes of subsection (4)(a) and (b) are consistent with those specified for the purposes of [<sup>F26</sup>subsection (2) and any objectives specified for it in the mandate published under section 13A of the National Health Service Act 2006 that relate to the education and training of health care workers] .

(7) A document under subsection (4) may specify different periods in relation to different categories of health care worker.

(8) [<sup>F27</sup>NHS England] must, before the end of 12 months beginning with the date on which a document under subsection (4) is published—

    - (a) review the document, and,
    - (b) if [<sup>F27</sup>NHS England] revises it, publish it as revised.

(9) [<sup>F28</sup>NHS England] may perform the duty under subsection (4) by publishing two or more documents which, taken together, comply with that subsection.

(10) [<sup>F29</sup>NHS England] must seek to achieve the objectives and outcomes and to reflect the priorities specified in any document—

    - (a) published by the Secretary of State under subsection <sup>F30</sup>... (2) or (3);
    - (b) published by [<sup>F29</sup>NHS England] under subsection (4) or (8).

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### Textual Amendments

- F20** S. 100(1) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(a)** (with reg. 7)
- F21** S. 100(2)(2A) substituted for s. 100(2) (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(b)** (with reg. 7)
- F22** Words in s. 100(3) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(c)** (with reg. 7)
- F23** S. 100(4) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(d)** (with reg. 7)
- F24** Words in s. 100(5) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(e)** (with reg. 7)
- F25** Words in s. 100(6) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(f)(i)** (with reg. 7)
- F26** Words in s. 100(6) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(f)(ii)** (with reg. 7)
- F27** Words in s. 100(8) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(g)** (with reg. 7)
- F28** Words in s. 100(9) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(h)** (with reg. 7)
- F29** Words in s. 100(10) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(i)** (with reg. 7)
- F30** Word in s. 100(10)(a) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(8)(i)(ii)** (with reg. 7)

### Commencement Information

- I5** S. 100 in force at 1.4.2015 by S.I. 2014/3186, **art. 2(b)**

## 101 Sections 98 and 100: matters to which [<sup>F31</sup>NHS England] must have regard **E** **+W**

- (1) In performing the duty under section 98(1) (ensuring sufficient skilled workers for the health service) or the duty under section 100(4) (setting objectives, priorities and outcomes for education and training), [<sup>F32</sup>NHS England] must have regard to the following matters in particular—
- (a) the likely future demand for health services and for persons with the skills and training to work as health care workers for the purposes of the health service,
  - (b) the sustainability of the supply of persons with the skills and training to work as such,

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- (c) the priorities that providers of health services have for the education and training of persons wishing to work as such,
- <sup>F33</sup>(d) .....
- (e) the objectives of the Secretary of State in exercising public health functions (as defined by section 1H of that Act),
- <sup>F34</sup>(f) .....
- (g) documents published by the Secretary of State under [<sup>F35</sup>section 100(2) or (3)],
- (h) the desirability of promoting the integration of health provision with health-related provision and care and support provision,
- (i) the desirability of enabling health care workers to switch between different posts relating to health provision, health-related provision or care and support provision, and
- (j) such other matters as regulations may specify.

[<sup>F36</sup>(2) In subsection (1)—

“health provision”, “health-related provision” and “care and support provision” each have the same meaning as in section 3;

“health services” means health services provided as part of the health service.]

#### Textual Amendments

- F31** Words in s. 101 heading substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(9)(a)** (with reg. 7)
- F32** Words in s. 101(1) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(9)(b)(i)** (with reg. 7)
- F33** S. 101(1)(d) omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(9)(b)(ii)** (with reg. 7)
- F34** S. 101(1)(f) omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(9)(b)(ii)** (with reg. 7)
- F35** Words in s. 101(1)(g) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(9)(b)(iii)** (with reg. 7)
- F36** S. 101(2) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(9)(c)** (with reg. 7)

#### Commencement Information

- I6** S. 101 in force at 1.4.2015 by [S.I. 2014/3186](#), **art. 2(b)**

## 102 Advice **E+W**

- (1) [<sup>F37</sup>NHS England] must make arrangements for obtaining advice on the exercise of its functions [<sup>F38</sup>under this Chapter] from persons who are involved in, or who [<sup>F37</sup>NHS England] thinks otherwise have an interest in, the provision of education and training for health care workers.

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- (2) [<sup>F39</sup>NHS England] must seek to ensure that it receives representations from the following, in particular, under the arrangements it makes under subsection (1)—
- (a) persons who provide health services;
  - (b) persons to whom health services are provided;
  - (c) carers for persons to whom health services are provided;
  - (d) health care workers;
  - (e) bodies which regulate health care workers;
  - (f) persons who provide, or contribute to the provision of, education and training for health care workers.
- (3) [<sup>F40</sup>NHS England] may perform a duty under subsection (2) by seeking to ensure that it receives representations from organisations which represent the persons referred to in the paragraph in question.
- (4) [<sup>F41</sup>NHS England] must advise the Secretary of State on such matters relating to its functions [<sup>F42</sup>under this Chapter] as the Secretary of State may request; and a request under this subsection may specify how and when the advice is to be provided.
- (5) “Carer” means an adult who provides or intends to provide care for another person.

#### Textual Amendments

- F37** Words in s. 102(1) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(10)(a)(i)** (with reg. 7)
- F38** Words in s. 102(1) inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(10)(a)(ii)** (with reg. 7)
- F39** Words in s. 102(2) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(10)(b)** (with reg. 7)
- F40** Words in s. 102(3) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(10)(b)** (with reg. 7)
- F41** Words in s. 102(4) substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(10)(c)(i)** (with reg. 7)
- F42** Words in s. 102(4) inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(10)(c)(ii)** (with reg. 7)

#### Commencement Information

- I7** S. 102 in force at 1.4.2015 by [S.I. 2014/3186](#), **art. 2(b)**

F43 ...

#### Textual Amendments

- F43** Ss. 103-107 and cross-heading omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 90(4)**, 186(6); [S.I. 2022/734](#), reg. 2(a), **Sch.** (with regs. 13, 29, 30)



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**103 Local Education and Training Boards** **E+W**

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**104 LETBs: appointment etc.** **E+W**

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**105 LETBs: co-operation by providers of health services** **E+W**

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**106 Education and training plans** **E+W**

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**107 Commissioning education and training** **E+W**

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*Tariffs*

**108 Tariffs** **E+W**

- (1) The Secretary of State may specify a tariff setting approved prices in respect of education and training.
- (2) The approved prices may be different for different descriptions of education and training (and may in particular be different for different areas).
- (3) A tariff specified under subsection (1) must be published.
- (4) If a tariff is specified under subsection (1), the Secretary of State may also specify a procedure for varying the approved prices in particular cases or descriptions of cases.
- (5) If the Secretary of State does so, the procedure—
  - (a) must be published, and
  - (b) must require a price as varied under the procedure to be published.
- (6) A published tariff or variation procedure may be revised or revoked by the Secretary of State.
- (7) If a tariff or variation procedure is revised, the Secretary of State must publish it as revised.
- (8) If it is revoked, the Secretary of State must publish a statement to that effect.
- (9) Where a tariff sets an approved price for a particular description of education or training, payments made by <sup>F44</sup>... [<sup>F45</sup>NHS England] in respect of the provision of that description of education or training must be made—
  - (a) by reference to the approved price, or
  - (b) where the approved price has been varied in accordance with a variation procedure that has effect in relation to it, by reference to the price as varied.

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#### Textual Amendments

- F44** Words in s. 108(9) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. 90(5), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F45** Words in s. 108(9) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), Sch. 1 para. 13(11) (with reg. 7)

#### Commencement Information

- I8** S. 108 in force at 1.4.2015 by S.I. 2014/3186, art. 2(d)

## CHAPTER 2 U.K.

### HEALTH RESEARCH AUTHORITY

#### Modifications etc. (not altering text)

- C1** Pt. 3 Ch. 2 modified (1.4.2015) by The Care and Support (Isles of Scilly) Order 2015 (S.I. 2015/642), arts. 1, 2(2)(b); SI 2015/993 art. 2(a)

#### *Establishment*

### 109 The Health Research Authority U.K.

- (1) There is to be a body corporate called the Health Research Authority (referred to in this Act as “the HRA”).
- (2) Schedule 7 (which includes provision about the HRA's constitution, the exercise of its functions and its financial and reporting duties) has effect.
- (3) The Special Health Authority called the Health Research Authority is abolished; and, in consequence of that, the following are revoked—
  - (a) the Health Research Authority (Establishment and Constitution) Order 2011 (S.I. 2011/2323), and
  - (b) the Health Research Authority Regulations 2011 (S.I. 2011/2341).
- (4) The Secretary of State may by order provide for the transfer of property, rights and liabilities from that Special Health Authority to the HRA; for further provision about an order under this section, see section 118.

#### Commencement Information

- I9** S. 109 in force at 1.1.2015 in so far as not already in force by S.I. 2014/2473, art. 5(a)
- I10** S. 109(2) in force at 15.7.2014 for specified purposes by S.I. 2014/1714, art. 3(3)(b)
- I11** S. 109(4) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, art. 4(1)(d)

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### *General functions*

#### **110 The HRA's functions U.K.**

- (1) The main functions of the HRA are—
  - (a) functions relating to the co-ordination and standardisation of practice relating to the regulation of health and social care research (see section 111);
  - (b) functions relating to research ethics committees (see sections 112 to 115);
  - (c) functions as a member of the United Kingdom Ethics Committee Authority (see section 116 and the Medicines for Human Use (Clinical Trials) Regulations 2004 (S.I. 2004/1031));
  - (d) functions relating to approvals for processing confidential information relating to patients (see section 117 and the Health Service (Control of Patient Information) Regulations 2002 (S.I. 2002/1438)).
- (2) The main objective of the HRA in exercising its functions is—
  - (a) to protect participants and potential participants in health or social care research and the general public by encouraging research that is safe and ethical, and
  - (b) to promote the interests of those participants and potential participants and the general public by facilitating the conduct of research that is safe and ethical (including by promoting transparency in research).
- (3) Health research is research into matters relating to people's physical or mental health; but a reference to health research does not include a reference to anything authorised under the Animals (Scientific Procedures) Act 1986.
- (4) Social care research is research into matters relating to personal care or other practical assistance for individuals aged 18 or over who are in need of care or assistance because of age, physical or mental illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or other similar circumstances; and “illness” has the meaning given by section 275(1) of the National Health Service Act 2006.
- (5) A reference to health or social care research does not include a reference to research into matters which are within the legislative competence of a devolved legislature.
- (6) A reference to research that is ethical is a reference to research that conforms to generally accepted ethical standards.
- (7) Promoting transparency in research includes promoting—
  - (a) the registration of research;
  - (b) the publication and dissemination of research findings and conclusions;
  - (c) the provision of access to data on which research findings or conclusions are based;
  - (d) the provision of information at the end of research to participants in the research;
  - (e) the provision of access to tissue used in research, for use in future research.
- (8) The Secretary of State may by order amend subsection (1) in consequence of—
  - (a) functions being given to the HRA,
  - (b) functions being taken away from the HRA, or
  - (c) changes to the description of functions that the HRA has for the time being.

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### Commencement Information

**I12** S. 110 in force at 1.1.2015 by S.I. 2014/2473, art. 5(b)

### *Regulatory practice*

## **111 Co-ordinating and promoting regulatory practice etc. U.K.**

- (1) The HRA and each of the following must co-operate with each other in the exercise of their respective functions relating to health or social care research, with a view to co-ordinating and standardising practice relating to the regulation of such research—
  - (a) the Secretary of State;
  - (b) the licensing authority for the purposes of the Medicines Act 1968;
  - <sup>F46</sup>(c) NHS England, but only insofar as its functions relating to health or social care research are relevant data functions (as defined by section 253(3) of the Health and Social Care Act 2012);]
  - (d) the Chief Medical Officer of the Department of Health <sup>F47</sup>and Social Care];
  - (e) the Human Fertilisation and Embryology Authority;
  - (f) the Human Tissue Authority;
  - (g) the Care Quality Commission;
  - (h) the Administration of Radioactive Substances Advisory Committee;
  - (i) such person, or a person of such description, as regulations may specify.
- (2) In performing the duty under subsection (1), a person must have regard to the need—
  - (a) to protect participants and potential participants in health or social care research and the general public by encouraging research that is safe and ethical, and
  - (b) to promote the interests of those participants and potential participants and the general public by facilitating the conduct of such research.
- (3) The HRA must promote the co-ordination and standardisation of practice in the United Kingdom relating to the regulation of health and social care research; and it must, in doing so, seek to ensure that such regulation is proportionate.
- (4) The HRA and each devolved authority must co-operate with each other in the exercise of their respective functions relating to the regulation of assessments of the ethics of health and social care research, with a view to co-ordinating and standardising practice in the United Kingdom relating to such regulation.
- (5) The HRA must—
  - (a) keep under review matters relating to the ethics of health or social care research and matters relating to the regulation of such research, and
  - (b) provide the Secretary of State with such advice about the matters referred to in paragraph (a) as the Secretary of State requests.
- (6) The HRA must publish guidance on—
  - (a) principles of good practice in the management and conduct of health and social care research;
  - (b) requirements, whether imposed by enactments or otherwise, to which persons conducting health or social care research are subject.

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- (7) A local authority (within the meaning of Part 1), an NHS trust established under section 25 of the National Health Service Act 2006 and an NHS foundation trust must each have regard to guidance under subsection (6).
- (8) The ways in which persons may co-operate with each other under subsection (1) or (4) include, for example, by sharing information.
- (9) Section 290 of the Health and Social Care Act 2012 (duties for health and social care authorities to co-operate), so far as applying to a person who is for the time being within subsection (1), does not apply to functions of that person relating to health or social care research.
- (10) Section 110(5) (exclusion of research into matters within devolved competence) does not apply to the reference in subsection (1) or (4) to health and social care research.

#### Textual Amendments

- F46** S. 111(1)(c) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 18(2)** (with reg. 3)
- F47** Words in s. 111(1)(d) inserted (11.4.2018) by [The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions \(Commonhold Land\) Order 2018 \(S.I. 2018/378\)](#), art. 1(2), **Sch. para. 16** (with art. 14)

#### Commencement Information

- I13** S. 111 in force at 1.1.2015 by [S.I. 2014/2473](#), **art. 5(c)**

### *Research ethics committees*

## **112 The HRA's policy on research ethics committees** **U.K.**

- (1) The HRA must ensure that research ethics committees it recognises or establishes under this Chapter provide an efficient and effective means of assessing the ethics of health and social care research.
- (2) A research ethics committee is a group of persons which assesses the ethics of research involving individuals; and the ways in which health or social care research might involve individuals include, for example—
  - (a) by obtaining information from them;
  - (b) by obtaining bodily tissue or fluid from them;
  - (c) by using information, tissue or fluid obtained from them on a previous occasion;
  - (d) by requiring them to undergo a test or other process (including xenotransplantation).
- (3) For the purposes of subsection (1), the HRA—
  - (a) must publish a document (called “the REC policy document”) which specifies the requirements which it expects research ethics committees it recognises or establishes under this Chapter to comply with, and
  - (b) must monitor their compliance with those requirements.

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- (4) The HRA may do such other things in relation to research ethics committees it recognises or establishes under this Chapter as it considers appropriate; it may, for example—
- (a) co-ordinate their work;
  - (b) allocate work to them;
  - (c) develop and maintain training programmes designed to ensure that their members and staff can carry out their work effectively;
  - (d) provide them with advice and help (including help in the form of financial assistance).
- (5) The requirements in the REC policy document may, for example, relate to—
- (a) membership;
  - (b) proceedings;
  - (c) staff;
  - (d) accommodation and facilities;
  - (e) expenses;
  - (f) objectives and functions;
  - (g) accountability;
  - (h) procedures for challenging decisions.
- (6) The HRA must ensure that the requirements imposed on research ethics committees in the REC policy document do not conflict with the requirements imposed on them by the Medicines for Human Use (Clinical Trials) Regulations 2004 (S.I. 2004/1031).
- (7) Before publishing the REC policy document, the HRA must consult—
- (a) the devolved authorities, and
  - (b) such other persons as it considers appropriate.
- (8) The HRA may revise the REC policy document and, where it does so, it must publish the document as revised; subsection (7) applies to a revised policy document in so far as the HRA considers the revisions significant.
- (9) The HRA must indemnify the members of each research ethics committee it recognises or establishes under this Chapter against any liability to a third party for loss, damage or injury arising from the committee's exercise of its functions in assessing the ethics of health or social care research.

#### Commencement Information

**I14** S. 112 in force at 1.1.2015 by S.I. 2014/2473, art. 5(d)

### 113 Approval of research **U.K.**

- (1) The HRA must publish guidance about—
- (a) the cases in which, in its opinion, good practice requires a person proposing to conduct health or social care research that involves individuals to obtain the approval of a research ethics committee recognised or established by the HRA under this Chapter, and
  - (b) the cases in which an enactment requires a person proposing to conduct research of that kind to obtain that approval.

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- (2) Before publishing guidance under subsection (1), the HRA must—
  - (a) consult the devolved authorities and such other persons as the HRA considers appropriate, and
  - (b) obtain the approval of the Secretary of State.
- (3) The HRA may revise guidance under subsection (1) and, where it does so, it must publish the guidance as revised; subsection (2) applies to revised guidance in so far as the HRA considers the revisions significant.
- (4) Schedule 8 (which amends various references to research ethics committees in secondary legislation) has effect.

#### Commencement Information

**I15** S. 113 in force at 1.1.2015 by S.I. 2014/2473, art. 5(e)

### 114 Recognition by the HRA **U.K.**

- (1) The HRA may, on an application made by or on behalf of a group of persons, recognise the group as a research ethics committee which is capable of—
  - (a) approving research of the kind referred to in section 113(1), and
  - (b) giving such other approvals as enactments require.
- (2) The HRA may not recognise a group under this section unless it is satisfied that—
  - (a) the group will, if recognised, comply with the requirements set out in the REC policy document, and
  - (b) there is or will be a demand for such a group.
- (3) In deciding whether to recognise a group under this section, the HRA must have regard to whether the group is recognised as a research ethics committee by or on behalf of a devolved authority.
- (4) The HRA may do anything (including providing financial assistance) to help a group wishing to be recognised under this section to reach a position from which it should be able to make an application for recognition under this section that is likely to succeed.
- (5) The HRA may revoke a recognition under this section if it is satisfied that—
  - (a) the group to which the recognition applies is not complying with the requirements specified in the REC policy document,
  - (b) the group is not (or is not properly) carrying out its function of assessing the ethical aspects of research, or
  - (c) revocation is necessary or desirable for some other reason.
- (6) A group in existence immediately before the commencement of section 109, and established or recognised by or on behalf of the old Health Research Authority, or by or on behalf of the Secretary of State, as a research ethics committee which assesses health or social care research is to be regarded as recognised by the HRA under this section.
- (7) The reference in subsection (6) to the old Health Research Authority is a reference to the Special Health Authority called the Health Research Authority (and abolished by section 109).

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**Commencement Information**

**I16** S. 114 in force at 1.1.2015 by S.I. 2014/2473, art. 5(f)

**115 Establishment by the HRA U.K.**

- (1) The HRA may establish research ethics committees which have the following functions—
  - (a) approving research of the kind referred to in section 113(1);
  - (b) giving such other approvals as enactments require.
- (2) The HRA must ensure that a research ethics committee established under this section complies with the requirements set out in the REC policy document.
- (3) The HRA may abolish a research ethics committee established under this section.

**Commencement Information**

**I17** S. 115 in force at 1.1.2015 by S.I. 2014/2473, art. 5(g)

**116 Membership of the United Kingdom Ethics Committee Authority U.K.**

In regulation 5 of the Medicines for Human Use (Clinical Trials) Regulations 2004 (S.I. 2004/1031) (United Kingdom Ethics Committee Authority)—

- (a) in paragraphs (1), (2) and (3), for “the Secretary of State for Health”, in each place it appears, substitute “ the Health Research Authority ”, and
- (b) in paragraph (2), for “the Secretary of State” substitute “ the Health Research Authority ”.

**Commencement Information**

**I18** S. 116 in force at 1.1.2015 by S.I. 2014/2473, art. 5(h)

*Patient information*

**117 Approval for processing confidential patient information U.K.**

- (1) The Health Service (Control of Patient Information) Regulations 2002 (S.I. 2002/1438) are amended as follows.
- (2) In regulation 5 (the title to which becomes “ Approval for processing information ”)—
  - (a) the existing text becomes paragraph (1), and
  - (b) in sub-paragraph (a) of that paragraph, for “both the Secretary of State and a research ethics committee” substitute “ the Health Research Authority ”.
- (3) After paragraph (1) of that regulation insert—
  - “(2) The Health Research Authority may not give an approval under paragraph (1)
    - (a) unless a research ethics committee has approved the medical research concerned.”



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- (4) After paragraph (2) of that regulation insert—
- “(3) The Health Research Authority shall put in place and operate a system for reviewing decisions it makes under paragraph (1)(a).”
- (5) In regulation 6 (registration requirements in relation to information), in paragraph (1) —
- (a) before “the Secretary of State” insert “ the Health Research Authority or ”, and
- (b) before “he” insert “ it or ”.
- (6) In paragraph (2)(d) of that regulation, before “the Secretary of State” insert “ the Health Research Authority or (as the case may be) ”.
- (7) In paragraph (3) of that regulation, for the words from the beginning to “in the register” substitute “ The Health Research Authority shall retain the particulars of each entry it records in the register, and the Secretary of State shall retain the particulars of each entry he records in the register, ”.
- (8) For paragraph (4) of that regulation substitute—
- “(4) The Health Research Authority shall, in such manner and to such extent as it considers appropriate, publish entries it records in the register; and the Secretary of State shall, in such manner and to such extent as he considers appropriate, publish entries he records in the register.”

**Commencement Information**

**119** S. 117 in force at 1.1.2015 by S.I. 2014/2473, art. 5(i)

**CHAPTER 3 U.K.**

CHAPTERS 1 AND 2: SUPPLEMENTARY

*Miscellaneous*

**118 Transfer orders U.K.**

- (1) An order under <sup>F48</sup>... section 109 (establishment of the Health Research Authority) (a “transfer order”) may make provision for rights and liabilities relating to an individual's contract of employment.
- (2) A transfer order may, in particular, make provision the same as or similar to provision in the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (3) A transfer order 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.
- (4) A transfer order may create rights, or impose liabilities, in relation to property, rights or liabilities transferred.

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- (5) A transfer order 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.
- (6) A transfer order may in particular make provision about continuation of legal proceedings.

#### Textual Amendments

**F48** Words in s. 118(1) omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 13(12)** (with reg. 7)

#### Commencement Information

**I20** S. 118 in force at 1.10.2014 by [S.I. 2014/2473](#), **art. 4(2)(b)**

### General

## 119 Chapters 1 and 2: interpretation and supplementary provision U.K.

- (1) For the purposes of Chapters 1 and 2, an expression in the first column of the following table is defined or otherwise explained by the provision of this Act specified in the second column.

<i>Expression</i>	<i>Provision</i>
F49	F49
...	...
F49	F49
...	...
Devolved authority	Section 126
Devolved legislature	Section 126
Direct or direction	Subsection (2) below
Enactment	Section 126
Financial year	Section 126
Health care workers	Section 97
Health research	Section 110
The health service	Section 126
Health services	[ <sup>F50</sup> Section 99]
F51	F51
...	...
The HRA	Section 109
F49	F49

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...  
Social care research  
Section 110

- (2) A power under Chapter 1 or 2 to give a direction—
- (a) includes a power to vary or revoke the direction by a subsequent direction, and
  - (b) must be exercised by giving the direction in question in writing.
- (3) The amendments made by sections 116 and 117 and Schedule 8 to provisions of subordinate legislation do not affect the power to make further subordinate legislation amending or revoking the amended provisions.

#### Textual Amendments

- F49** Words in s. 119(1) table omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 90(6)**, 186(6); [S.I. 2022/734](#), **reg. 2(a)**, **Sch.** (with **regs. 13, 29, 30**)
- F50** Words in s. 119(1) table substituted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), **reg. 1(2)**, **Sch. 1 para. 13(13)(a)** (with **reg. 7**)
- F51** Words in s. 119(1) table omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), **reg. 1(2)**, **Sch. 1 para. 13(13)(b)** (with **reg. 7**)

#### Commencement Information

- I21** S. 119 in force at 1.10.2014 for specified purposes for E. by [S.I. 2014/2473](#), **art. 4(1)(e)**
- I22** S. 119 in force at 1.1.2015 for specified purposes by [S.I. 2014/2473](#), **art. 5(j)**
- I23** S. 119 in force at 1.4.2015 in so far as not already in force by [S.I. 2014/3186](#), **art. 2(e)**

## CHAPTER 4 **E+W**

### TRUST SPECIAL ADMINISTRATION

#### **120 Powers of administrator etc. **E+W****

- (1) In section 65O of the National Health Service Act 2006 (Chapter 5A of Part 2: interpretation) (the existing text of which becomes subsection (1)) at the end insert—
- “(2) The references in this Chapter to taking action in relation to an NHS trust include a reference to taking action, including in relation to another NHS trust or an NHS foundation trust, which is necessary for and consequential on action taken in relation to that NHS trust.
  - (3) The references in this Chapter to taking action in relation to an NHS foundation trust include a reference to taking action, including in relation to another NHS foundation trust or an NHS trust, which is necessary for and consequential on action taken in relation to that NHS foundation trust.”
- (2) In section 65F of that Act (administrator's draft report), in subsection (1), for “45 working days” substitute “ 65 working days ”.
- (3) In subsection (5)(a) of that section, for “would achieve the objective set out in section 65DA(1)(a)” substitute “—

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- (i) would achieve the objective set out in section 65DA(1)(a),  
and
- (ii) would do so without harming essential services provided for the purposes of the NHS by any other NHS foundation trust or NHS trust that provides services under this Act to the commissioner.”.

(4) After subsection (7) of that section insert—

“(8) Where the administrator recommends taking action in relation to another NHS foundation trust or an NHS trust, the references in subsection (5) to a commissioner also include a reference to a person to which the other NHS foundation trust or the NHS trust provides services under this Act that would be affected by the action.

(9) A service provided by an NHS foundation trust or an NHS trust is an essential service for the purposes of subsection (5) if the person making the statement in question is satisfied that the criterion in section 65DA(3) is met.

(10) Section 65DA(4) applies to the person making the statement when that person is determining whether that criterion is met.”

(5) In section 65G of that Act (consultation plan), in subsection (2), for “30 working days” substitute “ 40 working days ”.

(6) In subsection (4)(a) of that section, for “would achieve the objective set out in section 65DA(1)(a)” substitute “—

- (i) would achieve the objective set out in section 65DA(1)(a),  
and
- (ii) would do so without harming essential services provided for the purposes of the NHS by any other NHS foundation trust or NHS trust that provides services under this Act to the commissioner.”.

(7) After subsection (6) of that section insert—

“(7) Where the administrator recommends taking action in relation to another NHS foundation trust or an NHS trust, the references in subsection (4) to a commissioner also include a reference to a person to which the other NHS foundation trust or the NHS trust provides services under this Act that would be affected by the action.”

(8) A service provided by an NHS foundation trust or an NHS trust is an essential service for the purposes of subsection (4) if the person making the statement in question is satisfied that the criterion in section 65DA(3) is met.

(9) Section 65DA(4) applies to the person making the statement when that person is determining whether that criterion is met.”

(8) In section 65H of that Act (consultation requirements), in subsection (4)—

- (a) after “trust special administrator must” insert “—  
(a)”,  
and
- (b) at the end insert “, and

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- (b) in the case of each affected trust, hold at least one meeting to seek responses from staff of the trust and from such persons as the trust special administrator may recognise as representing staff of the trust.”
- (9) In subsection (7) of that section, after paragraph (b) (but before paragraph (ba) inserted by section 85(10)(a) of this Act) insert—
- “(bza) any affected trust;
  - (bzb) any person to which an affected trust provides goods or services under this Act that would be affected by the action recommended in the draft report;
  - (bzc) any local authority in whose area the trust provides goods or services under this Act;
  - (bzd) any local authority in whose area an affected trust provides goods or services under this Act;
  - (bze) any Local Healthwatch organisation for the area of a local authority mentioned in paragraph (bzc) or (bzd);”.
- (10) In subsection (8) of that section, omit paragraph (e).
- (11) In subsection (9) of that section—
- (a) after “trust special administrator must” insert “—  
(a)”,
  - (b) after “subsection (7)(b),” (but before the insertion made by section 85(10)(b) of this Act) insert “ (bzb), ”, and
  - (c) at the end insert—
    - “(b) hold at least one meeting to seek responses from representatives of each of the trusts from which the administrator must request a written response under subsection (7)(bza), and
    - (c) hold at least one meeting to seek responses from representatives of each of the local authorities and Local Healthwatch organisations from which the administrator must request a written response under subsection (7)(bzc), (bzd) and (bze).”
- (12) After subsection (11) of that section, insert—
- “(11A) In this section, “affected trust” means—
- (a) where the trust in question is an NHS trust, another NHS trust, or an NHS foundation trust, which provides goods or services under this Act that would be affected by the action recommended in the draft report;
  - (b) where the trust in question is an NHS foundation trust, another NHS foundation trust, or an NHS trust, which provides services under this Act that would be affected by the action recommended in the draft report.
- (11B) In this section, a reference to a local authority includes a reference to the council of a district only where the district is comprised in an area for which there is no county council.”

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(13) In subsection (12)(a) of that section, after “subsection (7)(b)”, insert “, (bzb), (bzc) and (bzd)”.

(14) In section 65N of that Act (guidance), after subsection (1) insert—

“(1A) It must, in so far as it applies to NHS trusts, include guidance about—

- (a) seeking the support of commissioners for an administrator's recommendation;
- (b) involving the Board in relation to finalising an administrator's report or draft report.”

(15) In section 13Q of that Act (public involvement and consultation by NHS Commissioning Board), at the end insert—

“(4) This section does not require the Board to make arrangements in relation to matters to which a trust special administrator's report or draft report under section 65F or 65I relates before the Secretary of State makes a decision under section 65K(1), is satisfied as mentioned in section 65KB(1) or 65KD(1) or makes a decision under section 65KD(9) (as the case may be).”

(16) In section 14Z2 of that Act (public involvement and consultation by clinical commissioning groups), at the end insert—

“(7) This section does not require a clinical commissioning group to make arrangements in relation to matters to which a trust special administrator's report or draft report under section 65F or 65I relates before the Secretary of State makes a decision under section 65K(1), is satisfied as mentioned in section 65KB(1) or 65KD(1) or makes a decision under section 65KD(9) (as the case may be).”

(17) In section 242 of that Act (public involvement and consultation by NHS trusts and foundation trusts), in subsection (6)—

- (a) for “65I, 65R or 65U” substitute “ or 65I ”, and
- (b) for the words from “the decision” to the end substitute “ the Secretary of State makes a decision under section 65K(1), is satisfied as mentioned in section 65KB(1) or 65KD(1) or makes a decision under section 65KD(9) (as the case may be). ”

(18) In Schedule 14 to the Health and Social Care Act 2012 (abolition of NHS trusts in England: consequential amendments)—

- (a) after paragraph 4 insert—

“4A  
In section 13Q(4) (public involvement and consultation by Board), omit “makes a decision under section 65K(1),”.

4B  
In section 14Z2 (public involvement and consultation by clinical commissioning groups), omit “makes a decision under section 65K(1),”.

- (b) in paragraph 15(4), in the new subsection (2A) to be inserted into section 65F of the National Health Service Act 2006, in paragraph (a), for “would achieve the objective set out in section 65DA(1)(a)” substitute “—

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- (i) would achieve the objective set out in section 65DA(1)(a), and
  - (ii) would do so without harming essential services provided for the purposes of the NHS by any other NHS foundation trust that provides services under this Act to the commissioner.”,
- (c) in paragraph 15(4), after the new subsection (2C) to be inserted into that section, insert—
  - “(2D) Where the administrator recommends taking action in relation to another NHS foundation trust, the references in subsection (2A) to a commissioner also include a reference to a person to which the other NHS foundation trust provides services under this Act that would be affected by the action.
  - (2E) A service provided by an NHS foundation trust is an essential service for the purposes of subsection (2A) if the person making the statement in question is satisfied that the criterion in section 65DA(3) is met.
  - (2F) Section 65DA(4) applies to the person making the statement when that person is determining whether that criterion is met.”,
- (d) in paragraph 15, after sub-paragraph (7) insert—
  - “(8) Omit subsections (8) to (10).”,
- (e) in paragraph 16 (the text of which becomes sub-paragraph (1)) at the end insert—
  - “(2) In subsection (4)(a)(ii) of that section, omit “or NHS trust”.
  - (3) In subsection (7) of that section, omit “or an NHS trust” and “or the NHS trust”.
  - (4) In subsection (8) of that section, omit “or an NHS trust”.
- (f) in paragraph 17, in sub-paragraph (2)(a), for “paragraph (b)” substitute “paragraphs (b), (bzb), (bzc) and (bzd)”,
- (g) in that paragraph, after sub-paragraph (4) insert—
  - “(4A) In subsection (11A)—
    - (a) omit paragraph (a), and
    - (b) in paragraph (b), omit “where the trust in question is an NHS foundation trust,” and “; or an NHS trust.”.
- (h) in paragraph 24, after sub-paragraph (2) insert—
  - “(2A) Omit subsection (1A).”,
- (i) after that paragraph insert—
  - “24A In section 65O (interpretation)—
    - (a) omit subsection (2), and
    - (b) in subsection (3), omit “or an NHS trust”.
- (j) in paragraph 35, omit the “and” preceding paragraph (d) and after that paragraph insert “, and

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- (e) in subsection (6), omit “makes a decision under section 65K(1),”.

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**Commencement Information**

**I24** S. 120 in force at 15.7.2014 by S.I. 2014/1714, art. 3(2)(c)



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**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):

- s. 15(2)-(3B) substituted for s. 15(2)(3) by [2022 c. 31 s. 166\(2\)](#)
- s. 26(1)-(2A) substituted for s. 26(1)(2) by [2022 c. 31 s. 166\(4\)](#)