



Health and Care Act 2022

2022 CHAPTER 31

PART 1

HEALTH SERVICE IN ENGLAND: INTEGRATION, COLLABORATION AND OTHER CHANGES

NHS England

1 NHS Commissioning Board renamed NHS England

- (1) The National Health Service Commissioning Board is renamed NHS England.
- (2) Schedule 1 contains consequential amendments.

2 Power to require commissioning of specialised services

- (1) Section 3B of the National Health Service Act 2006 (Secretary of State's power to require commissioning of services) is amended as follows.
- (2) For subsection (2) substitute—
 - “(2) A service or facility may be prescribed under subsection (1)(d) only if the Secretary of State considers that it would be appropriate for NHS England to arrange for the provision of that service or facility (whether by NHS England making arrangements itself or by giving directions under section 13YB or making arrangements under section 65Z5).”
- (3) In subsection (3), omit paragraph (d).
- (4) After subsection (4) insert—
 - “(4A) If the Secretary of State refuses a request by NHS England to revoke provision made by regulations under subsection (1)(d) prescribing a service or facility, the Secretary of State must explain why to NHS England.”

3 Spending on mental health

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 12E insert—

“12F Expected mental health spending

- (1) The Secretary of State must, in respect of each financial year, publish and lay before Parliament a document—
- (a) stating, by comparison with the previous financial year—
 - (i) whether the Secretary of State expects there to be an increase in the amount of expenditure incurred by NHS England and integrated care boards (taken together) in relation to mental health, and
 - (ii) whether the Secretary of State expects there to be an increase in the proportion of the expenditure incurred by NHS England and integrated care boards (taken together) that relates to mental health, and
 - (b) explaining why.
- (2) The Secretary of State must publish and lay the document before the financial year to which it relates.”
- (3) In section 13U (annual report), after subsection (2A) (inserted by section 34 of this Act) insert—
- “(2B) The annual report must include—
- (a) a statement of the amount of expenditure incurred by NHS England and integrated care boards during the year (taken together) in relation to mental health,
 - (b) a calculation of the proportion of the expenditure incurred by NHS England and integrated care boards during the year (taken together) that relates to mental health, and
 - (c) an explanation of the statement and calculation.”

4 NHS England mandate: general

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 13A (mandate)—
- (a) in subsection (1), omit “Before the start of each financial year.”;
 - (b) in subsection (2), in paragraph (a), omit from “during that financial year” to the end of that paragraph (but not the final “and”);
 - (c) omit subsections (3) and (4);
 - (d) in subsection (5), omit “in relation to the first financial year to which the mandate relates”;
 - (e) after subsection (6) insert—
- “(6A) The Secretary of State may revise the mandate.
- (6B) If the Secretary of State revises the mandate, the Secretary of State must publish and lay before Parliament the mandate as revised.”

- (3) In section 13B (the mandate: supplementary provision)—
- (a) for the heading substitute “Review of NHS England’s performance in implementing the mandate”;
 - (b) omit subsections (2) to (5).
- (4) In section 13T (business plan)—
- (a) in subsection (3), omit “for the first financial year to which the plan relates”;
 - (b) after subsection (3) insert—

“(3A) The fact that the mandate is revised during the period to which a business plan relates does not require NHS England to revise the plan.”
- (5) In section 13U (annual report), in subsection (2), for paragraph (a) substitute—
- (a) the extent to which, in that year, it met any objectives or requirements specified in the mandate.”.

5 NHS England mandate: cancer outcome targets

- (1) Section 13A of the National Health Service Act 2006 (mandate) is amended in accordance with subsection (2).
- (2) After subsection (2), insert the following new subsection—
- (2A) The objectives specified by the Secretary of State under subsection (2)(a) for NHS England must include objectives relating to outcomes for cancer patients, and those objectives are to be treated by NHS England as having priority over any other objectives relating specifically to cancer.”

6 Duties as to reducing inequalities

- In section 13G of the National Health Service Act 2006 (NHS England’s duties in relation to the reduction of inequalities)—
- (a) in paragraph (a), for “patients” substitute “persons”;
 - (b) in paragraph (b), after “services” insert “(including the outcomes described in section 13E(3))”.

7 Duties in respect of research: business plan and annual report etc

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 13L (duty in respect of research), after “functions,” insert “facilitate or otherwise”.
- (3) In section 13T (business plan), in subsection (2)(a), after “13G” insert “, 13L”.
- (4) In section 13U (annual report), in subsection (2)(c) (as amended by section 78(4) of this Act), at the appropriate place insert—
- “section 13L;”.

8 NHS England: wider effect of decisions

- After section 13N of the National Health Service Act 2006 insert—

“13NA Duty to have regard to wider effect of decisions

- (1) In making a decision about the exercise of its functions, NHS England must have regard to all likely effects of the decision in relation to—
 - (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.
- (2) In subsection (1)—
 - (a) the reference to a decision does not include a reference to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness;
 - (b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
 - (c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.
- (3) In discharging the duty under this section, NHS England must have regard to guidance published by it under section 13NB.
- (4) In this section “relevant bodies” means—
 - (a) NHS England,
 - (b) integrated care boards,
 - (c) NHS trusts established under section 25, and
 - (d) NHS foundation trusts.

13NB Guidance about discharge of duty

- (1) NHS England may publish guidance about the discharge of—
 - (a) the duty imposed on it by section 13NA;
 - (b) the duty imposed on integrated care boards by section 14Z43;
 - (c) the duty imposed on NHS trusts by section 26A;
 - (d) the duty imposed on NHS foundation trusts by section 63A.
- (2) NHS England must consult any persons NHS England considers it appropriate to consult—
 - (a) before first publishing guidance under this section, and
 - (b) before publishing any revised guidance containing changes that are, in the opinion of NHS England, significant.”

9 NHS England: duties in relation to climate change etc

After section 13NB of the National Health Service Act 2006 (inserted by section 8 of this Act) insert—

“13NC Duties as to climate change etc

- (1) NHS England must, in the exercise of its functions, have regard to the need to—
 - (a) contribute towards compliance with—
 - (i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
 - (ii) section 5 of the Environment Act 2021 (environmental targets), and
 - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS England must have regard to guidance published by it under section 13ND.

13ND Guidance about discharge of duty under section 13NC etc

NHS England may publish guidance about the discharge of—

- (a) the duty imposed on it by section 13NC;
- (b) the duty imposed on integrated care boards by section 14Z44;
- (c) the duty imposed on NHS trusts by section 26B;
- (d) the duty imposed on NHS foundation trusts by section 63B.”

10 Public involvement: carers and representatives

In section 13Q of the National Health Service Act 2006 (public involvement and consultation), in subsection (2), after “individuals to whom the services are being or may be provided” insert “, and their carers and representatives (if any),”.

11 Information about inequalities

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 13S insert—

“13SA Information about inequalities

- (1) NHS England must publish a statement setting out—
 - (a) a description of the powers available to relevant NHS bodies to collect, analyse and publish information relating to—
 - (i) inequalities between persons with respect to their ability to access health services;
 - (ii) inequalities between persons with respect to the outcomes achieved for them by the provision of health services (including the outcomes described in section 13E(3)); and

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- (b) the views of NHS England about how those powers should be exercised in connection with such information.
- (2) NHS England may from time to time publish a revised statement under subsection (1).
- (3) In this section “relevant NHS bodies” means—
 - (a) integrated care boards,
 - (b) NHS trusts established under section 25, and
 - (c) NHS foundation trusts.”
- (3) In Schedule 4 (NHS trusts: constitution etc), in paragraph 12, after sub-paragraph (1A) (inserted by Schedule 4 to this Act) insert—
 - “(1B) The annual report must, in particular, review the extent to which the NHS trust has exercised its functions consistently with NHS England’s views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised).”
- (4) In Schedule 7 (constitution of public benefit corporations), in paragraph 26, after sub-paragraph (1A) (inserted by Schedule 4 to this Act) insert—
 - “(1B) The reports must, in particular, review the extent to which the public benefit corporation has exercised its functions consistently with NHS England’s views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised).”

12 Support and assistance by NHS England

After section 13Y of the National Health Service Act 2006 insert—

“Assistance and support

13YA Power of NHS England to provide assistance and support

- (1) NHS England may provide assistance or support to—
 - (a) any person providing or proposing to provide services as part of the health service;
 - (b) any person, not within paragraph (a), exercising functions in relation to the health service.
- (2) The assistance that may be provided under subsection (1)(a) or (b) includes making available the services of NHS England’s employees or any other resources of NHS England.
- (3) The assistance that may be provided under subsection (1)(a), or that may be provided under subsection (1)(b) to integrated care boards, also includes financial assistance.
- (4) Assistance or support provided under this section may be provided on such terms, including terms as to payment, as NHS England considers appropriate.”

13 Exercise of functions relating to provision of services

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 13YA (inserted by section 12 of this Act) insert—

“Discharge of functions

13YB Directions in respect of functions relating to provision of services

- (1) NHS England may by direction provide for any of its relevant functions to be exercised by one or more integrated care boards.
- (2) In this section “relevant function” means—
 - (a) any function of NHS England under section 3B(1) (commissioning functions);
 - (b) any function of NHS England, not within paragraph (a), that relates to the provision of—
 - (i) primary medical services,
 - (ii) primary dental services,
 - (iii) primary ophthalmic services, or
 - (iv) services that may be provided as pharmaceutical services, or as local pharmaceutical services, under Part 7;
 - (c) any function of NHS England by virtue of section 7A or 7B (exercise of Secretary of State’s public health functions);
 - (d) any other functions of NHS England so far as exercisable in connection with any functions within paragraphs (a) to (c).
- (3) Regulations may—
 - (a) provide that the power in subsection (1) does not apply, or applies only to a prescribed extent, in relation to a prescribed function;
 - (b) impose conditions on the exercise of the power.
- (4) A direction under subsection (1) may include provision prohibiting or restricting the integrated care board from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (5) In subsection (4) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (6) NHS England may make payments to an integrated care board in respect of the exercise by it of a function by virtue of a direction under subsection (1).
- (7) NHS England may give directions to an integrated care board as to the exercise by it of any functions in pursuance of a direction under subsection (1).
- (8) As soon as reasonably practicable after giving a direction under subsection (1), NHS England must publish it.
- (9) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by an integrated care board of any function by virtue of this section are enforceable by or against it (and no other person).”

- (3) In section 73 (directions and regulations under Part 2), in subsection (1), after paragraph (b) insert—

“(ba) section 13YB.”.

14 Preparation of consolidated accounts for providers

Before section 66 of the National Health Service Act 2006 (and the italic heading before it) insert—

“Consolidated accounts

65Z4 Consolidated accounts for NHS trusts and NHS foundation trusts

- (1) NHS England must, in respect of each financial year, prepare a set of accounts that consolidates the annual accounts of—
 - (a) all NHS trusts established under section 25, and
 - (b) all NHS foundation trusts.
- (2) The Secretary of State may give NHS England directions as to—
 - (a) the content and form of the consolidated accounts, and
 - (b) the methods and principles to be applied in preparing them.
- (3) NHS England must, within such period as the Secretary of State may direct, send a copy of the consolidated accounts to—
 - (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General.
- (4) The accounts must be accompanied by such reports or other information as the Secretary of State may direct.
- (5) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the consolidated accounts, and
 - (b) send a copy of the report to the Secretary of State and NHS England.
- (6) NHS England must lay before Parliament a copy of—
 - (a) the consolidated accounts, and
 - (b) the Comptroller and Auditor General’s report on them.”

15 Funding for service integration

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 223B (funding of NHS England)—
 - (a) for subsection (6) substitute—
 - “(6) The Secretary of State may direct NHS England—
 - (a) that an amount of the sums paid to it under this section in respect of a financial year is to be used for purposes relating to service integration;
 - (b) about the use by NHS England of that amount for those purposes.”;

- (b) in subsection (7)—
 - (i) for “subsection (6)” substitute “subsection (6)(a)”;
 - (ii) in paragraph (b), for “mandate” substitute “direction”;
 - (c) after subsection (7) insert—
 - “(7A) The power under subsection (6)(b) includes power to give NHS England directions about the exercise of any of its functions under or by virtue of section 223GA (including directions requiring consultation with the Secretary of State or other specified persons).
 - (7B) The Secretary of State must publish any direction under subsection (6).”
- (3) In section 223GA (expenditure on integration)—
- (a) for subsections (1) and (2) substitute—
 - “(1) Where the Secretary of State has given NHS England a direction under section 223B(6)(a) about sums paid to it in respect of a financial year, NHS England may direct an integrated care board that an amount (a “designated amount”) of the sums paid to the board under section 223G in respect of that year is to be used for purposes relating to service integration.
 - (2) The designated amount—
 - (a) is to be determined in such manner as NHS England considers appropriate, and
 - (b) must be specified in the direction under subsection (1).”;
 - (b) in subsection (6), for paragraph (a) (but not the “and” at the end) substitute—
 - “(a) it may use the amount for any purposes relating to service integration.”;
 - (c) omit subsection (7).

16 Payments in respect of quality

In section 223K of the National Health Service Act 2006, omit subsections (4) and (5) (power of Secretary of State to make regulations about payments by NHS England in respect of quality).

17 Secondments to NHS England

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 272 (orders, regulations, rules and directions), in subsection (6)—
 - (a) omit the “or” at the end of paragraph (b);
 - (b) after paragraph (c) insert—
 - “(d) regulations under paragraph 9A(5) of Schedule A1, or”.
- (3) In Schedule A1 (constitution of NHS England), after paragraph 9 insert—
 - “9A (1) NHS England may make arrangements for a person to be seconded to NHS England to serve as a member of NHS England’s staff.

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

- (2) A period of secondment to NHS England does not affect the continuity of a person’s employment with the employer from whose service the person is seconded.
- (3) In paragraphs 9, 10, and 13 a reference to an employee of NHS England includes a person seconded to NHS England.
- (4) In paragraph 3(3) the reference to an employee of NHS England includes any of the following seconded to NHS England—
- (a) a person employed in the civil service of the State, or
 - (b) a person employed by—
 - (i) an integrated care board,
 - (ii) an NHS trust established under section 25,
 - (iii) an NHS foundation trust,
 - (iv) a Special Health Authority performing functions only or mainly in respect of England,
 - (v) the Care Quality Commission,
 - (vi) the Health and Social Care Information Centre,
 - (vii) the Health Services Safety Investigations Body,
 - (viii) the Human Tissue Authority,
 - (ix) the Human Fertilisation and Embryology Authority, or
 - (x) NICE.
- (5) The Secretary of State may by regulations amend this paragraph so as to provide that other references in this Act to an employee of NHS England include persons, or persons of a prescribed description, seconded to NHS England.”

Integrated care boards

18 Role of integrated care boards

For section 11 of the National Health Service Act 2006 and the italic heading before it substitute—

“Role of integrated care boards in the health service in England

11 General functions of integrated care boards

An integrated care board established under Chapter A3 of Part 2 has the function of arranging for the provision of services for the purposes of the health service in England in accordance with this Act.”

19 Establishment of integrated care boards

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In Part 2, after Chapter A2 insert—

“CHAPTER A3

INTEGRATED CARE BOARDS

“Establishment of integrated care boards (including by re-purposing clinical commissioning groups)”

14Z25 Duty to establish integrated care boards

- (1) NHS England must establish bodies called integrated care boards in accordance with this Chapter.
- (2) Each integrated care board is to be established by order made by NHS England for an area within England.
- (3) The area for which an integrated care board is established must not coincide or overlap with the area of any other integrated care board.
- (4) NHS England must ensure that, at all times on and after the appointed day, the areas of integrated care boards together cover the whole of England.
- (5) An order establishing an integrated care board must provide for the constitution of the board, either by setting out the constitution or by making provision by reference to a published document where it is set out.
- (6) In Schedule 1B—
 - (a) Part 1 is about the constitution of an integrated care board (including its area);
 - (b) Part 2 is about the status and powers of an integrated care board and its accounts.
- (7) Before varying or revoking an order under this section NHS England must consult any integrated care board that it considers likely to be affected.
- (8) NHS England must publish orders under this section.
- (9) In this section “the appointed day” means a day appointed under this subsection by regulations made by the Secretary of State.

14Z26 Process for establishing initial integrated care boards

- (1) NHS England must publish a list of the initial areas for which integrated care boards are to be established (each of which is referred to in this section as an “initial area”).
- (2) The relevant clinical commissioning group or groups for an initial area must propose the constitution of the first integrated care board to be established for that area.
- (3) Before making a proposal under subsection (2), the relevant clinical commissioning group or groups must consult any persons they consider it appropriate to consult (and it is immaterial for this purpose whether the consultation is carried out before or after this section comes into force).

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

- (4) When establishing the first integrated care board under section 14Z25 for an initial area, NHS England must give effect to any proposal under subsection (2) unless it considers that—
- (a) the proposal is inappropriate, or
 - (b) the relevant clinical commissioning group or groups have not carried out an appropriate consultation under subsection (3),
- and in that case NHS England must determine the terms of the constitution itself.
- (5) Nothing in this section—
- (a) prevents NHS England from establishing the first integrated care board for an initial area in a case where the relevant clinical commissioning group or groups have failed within a reasonable period to make a proposal under subsection (2), or
 - (b) limits the re-exercise of the power in section 14Z25.
- (6) NHS England may publish guidance for clinical commissioning groups about the exercise of their functions under this section.
- (7) A clinical commissioning group must have regard to guidance published under this section.
- (8) In this section “the relevant clinical commissioning group or groups” means—
- (a) in relation to an area that coincides with the area of a clinical commissioning group, that group;
 - (b) in relation to an area that includes the whole or part of the area of more than one clinical commissioning group, those groups acting jointly.

14Z27 Abolition of clinical commissioning groups

- (1) Any clinical commissioning group in existence immediately before the appointed day is abolished at the beginning of that day.
- (2) In this section “the appointed day” has the same meaning as in section 14Z25.

14Z28 Transfer schemes in connection with integrated care boards

- (1) NHS England may, in connection with the abolition of a clinical commissioning group under section 14Z27, make a scheme for the transfer of the group’s property, rights or liabilities to NHS England or an integrated care board.
- (2) NHS England may, in connection with the establishment of an integrated care board, make a scheme for the transfer of property, rights or liabilities to the board from—
 - (a) NHS England,
 - (b) an NHS trust established under section 25,
 - (c) an NHS foundation trust, or
 - (d) a Special Health Authority established under section 28.
- (3) NHS England may, in connection with the variation of the constitution of an integrated care board or the abolition of an integrated care board, make a

scheme for the transfer of the board's property, rights or liabilities to NHS England or an integrated care board.

- (4) The reference in subsection (3) to the variation of the constitution of an integrated care board is to its variation by order under section 14Z25 or under provision included in its constitution by virtue of paragraph 14 of Schedule 1B.
- (5) NHS England must exercise its powers under subsection (1) or (3) so as to ensure that—
 - (a) on the abolition of a clinical commissioning group whose area coincides with that of an integrated care board, all of the group's property, rights and liabilities (other than criminal liabilities) are transferred to that board;
 - (b) on the abolition of a clinical commissioning group whose area does not coincide with that of an integrated care board, all of the group's property, rights and liabilities (other than criminal liabilities) are transferred to one or more integrated care boards;
 - (c) on the abolition of an integrated care board, all of the board's liabilities (other than criminal liabilities) are transferred.
- (6) The things that may be transferred under a transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (7) A transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the TUPE regulations;
 - (g) make other consequential, supplementary, incidental or transitional provision.
- (8) A transfer scheme may provide—
 - (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (9) In subsection (7)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

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

- (10) In this section—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.

Constitution: publication

14Z29 Duty for integrated care board to publish constitution

Each integrated care board must publish its constitution (as varied from time to time by order under section 14Z25 or under provision included in its constitution by virtue of paragraph 15 of Schedule 1B).

Conflicts of interest

14Z30 Register of interests and management of conflicts of interests

- (1) Each integrated care board must maintain one or more registers of the interests of—
 - (a) members of the board,
 - (b) members of its committees or sub-committees, and
 - (c) its employees.
 - (2) Each integrated care board must publish the registers maintained under subsection (1) or make arrangements to ensure that members of the public have access to the registers on request.
 - (3) Each integrated care board must make arrangements to ensure—
 - (a) that a person mentioned in subsection (1) declares any conflict or potential conflict of interest that the person has in relation to a decision to be made in the exercise of the commissioning functions of the integrated care board,
 - (b) that any such declaration is made as soon as practicable after the person becomes aware of the conflict or potential conflict and, in any event, within 28 days of the person becoming aware, and
 - (c) that any such declaration is included in the registers maintained under subsection (1).
 - (4) Each integrated care board must make arrangements for managing conflicts and potential conflicts of interest in such a way as to ensure that they do not, and do not appear to, affect the integrity of the board’s decision-making processes.
 - (5) For the purposes of this section, the commissioning functions of an integrated care board are the functions of the board in arranging for the provision of services as part of the health service.”
- (3) In section 272 (orders, regulations, rules and directions), in subsection (1), before paragraph (a) insert—
- “(za) section 14Z25(2),”.

- (4) Schedule 2 inserts into the National Health Service Act 2006 a new Schedule 1B (integrated care boards: constitution etc) and contains a consequential amendment.

20 People for whom integrated care boards have responsibility

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 14Z30 (inserted by section 19 of this Act) insert—

“People for whom integrated care board has responsibility

14Z31 People for whom integrated care board has responsibility

- (1) NHS England must from time to time publish rules for determining the group of people for whom each integrated care board has core responsibility.
- (2) The rules must ensure that the following are allocated to at least one group—
- everyone who is provided with NHS primary medical services, and
 - everyone who is usually resident in England and is not provided with NHS primary medical services.
- (3) Regulations may create exceptions to subsection (2) in relation to people of a prescribed description (which may include a description framed by reference to the primary medical services with which the people are provided).
- (4) References in this Act to the group of people for whom an integrated care board has core responsibility are to be read in accordance with this section.
- (5) In this section, “NHS primary medical services” means services provided by a person, other than NHS England or an integrated care board, in pursuance of—
- a general medical services contract to provide primary medical services of a prescribed description,
 - arrangements under section 83(2) for the provision of primary medical services of a prescribed description, or
 - section 92 arrangements for the provision of primary medical services of a prescribed description.”
- (3) In section 272 (orders, regulations, rules and directions)—
- in subsection (1), after paragraph (za) (inserted by section 19 of this Act) insert—

“(zb) section 14Z31(1),”;
 - in subsection (6), after paragraph (zb) insert—

“(zba) regulations under section 14Z31(3),”.
- (4) The Secretary of State may by regulations—
- substitute the following section for section 14Z31 of the National Health Service Act 2006 (as inserted by subsection (2) of this section)—

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

“14Z31 People for whom integrated care board has responsibility

- (1) References in this Act to the group of people for whom an integrated care board has core responsibility are to the people who usually reside in its area.
- (2) Regulations may create exceptions to subsection (1) in relation to people of a prescribed description.”
- (b) repeal section 272(1)(zb) of that Act (as inserted by subsection (3) of this section), and
- (c) amend section 272(6)(zba) of that Act (as inserted by subsection (3) of this section), so as to substitute “14Z31(2)” for “14Z31(3)”.

Integrated care boards: functions

21 Commissioning hospital and other health services

For sections 3 and 3A of the National Health Service Act 2006 substitute—

“3 Duties of integrated care boards as to commissioning certain health services

- (1) An integrated care board must arrange for the provision of the following to such extent as it considers necessary to meet the reasonable requirements of the people for whom it has responsibility—
 - (a) hospital accommodation,
 - (b) other accommodation for the purpose of any service provided under this Act,
 - (c) medical services other than primary medical services (for primary medical services, see Part 4),
 - (d) dental services other than primary dental services (for primary dental services, see Part 5),
 - (e) ophthalmic services other than primary ophthalmic services (for primary ophthalmic services, see Part 6),
 - (f) nursing and ambulance services,
 - (g) such other services or facilities for the care of pregnant women, women who are breastfeeding and young children as the board considers are appropriate as part of the health service,
 - (h) such other services or facilities for palliative care as the board considers are appropriate as part of the health service,
 - (i) such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as the board considers are appropriate as part of the health service, and
 - (j) such other services or facilities as are required for the diagnosis and treatment of illness.
- (2) For the purposes of this section an integrated care board has responsibility for—

- (a) the group of people for whom it has core responsibility (see section 14Z31), and
 - (b) such other people as may be prescribed (whether generally or in relation to a prescribed service or facility).
- (3) The duty imposed on an integrated care board by subsection (1) to arrange for the provision of services or facilities does not apply to the extent that—
- (a) NHS England has a duty to arrange for their provision;
 - (b) another integrated care board has a duty to arrange for their provision by virtue of subsection (2)(b).
- (4) In exercising its functions under this section, an integrated care board must act consistently with—
- (a) the discharge by the Secretary of State and NHS England of their duty under section 1(1) (duty to promote a comprehensive health service), and
 - (b) the objectives and requirements for the time being specified in the mandate published under section 13A.

3A Power of integrated care boards to commission certain health services

- (1) Each integrated care board may arrange for the provision of such services or facilities as it considers appropriate for the purposes of the health service that relate to securing improvement—
- (a) in the physical and mental health of the people for whom it has responsibility, or
 - (b) in the prevention, diagnosis and treatment of illness in those people.
- (2) For the purposes of this section an integrated care board has responsibility for—
- (a) the group of people for whom it has core responsibility (see section 14Z31), and
 - (b) such other people as may be prescribed (whether generally or in relation to a prescribed service or facility).
- (3) An integrated care board may not arrange for the provision of a service or facility under subsection (1) if NHS England has a duty to arrange for its provision by virtue of section 3B or 4.
- (4) In exercising its functions under this section, an integrated care board must act consistently with—
- (a) the discharge by the Secretary of State and NHS England of their duty under section 1(1) (duty to promote a comprehensive health service), and
 - (b) the objectives and requirements for the time being specified in the mandate published under section 13A.”

22 Commissioning primary care services etc

Schedule 3 confers functions on integrated care boards in relation to primary care services and contains other amendments relating to primary care services.

23 Transfer schemes in connection with transfer of primary care functions

- (1) NHS England may, in connection with the amendments made by Schedule 3, make one or more schemes for the transfer of its property, rights and liabilities to an integrated care board.
- (2) The things that may be transferred under a transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (3) A transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the TUPE regulations;
 - (g) make other consequential, supplementary, incidental or transitional provision.
- (4) A transfer scheme may provide—
 - (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (5) In subsection (3)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (6) For the purposes of this section—
 - (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.

24 Commissioning arrangements: conferral of discretions

In section 12ZA of the National Health Service Act 2006 (commissioning arrangements by NHS England and integrated care boards), after subsection (2) insert—

“(2A) The arrangements may confer discretions on a person with whom they are made in relation to anything to be provided under the arrangements.”

25 General functions

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 14Z31 (inserted by section 20 of this Act) insert—

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“General duties of integrated care boards

14Z32 Duty to promote NHS Constitution

- (1) Each integrated care board must, in the exercise of its functions—
 - (a) act with a view to securing that health services are provided in a way which promotes the NHS Constitution, and
 - (b) promote awareness of the NHS Constitution among patients, staff and members of the public.
- (2) In this section, “patients” and “staff” have the same meaning as in Chapter 1 of Part 1 of the Health Act 2009 (see section 3(7) of that Act).

14Z33 Duty as to effectiveness, efficiency etc

Each integrated care board must exercise its functions effectively, efficiently and economically.

14Z34 Duty as to improvement in quality of services

- (1) Each integrated care board must exercise its functions with a view to securing continuous improvement in the quality of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness.
- (2) In discharging its duty under subsection (1), an integrated care board must, in particular, act with a view to securing continuous improvement in the outcomes that are achieved from the provision of the services.
- (3) The outcomes relevant for the purposes of subsection (2) include, in particular, outcomes which show—
 - (a) the effectiveness of the services,
 - (b) the safety of the services, and
 - (c) the quality of the experience undergone by patients.

14Z35 Duties as to reducing inequalities

Each integrated care board must, in the exercise of its functions, have regard to the need to—

- (a) reduce inequalities between persons with respect to their ability to access health services, and
- (b) reduce inequalities between patients with respect to the outcomes achieved for them by the provision of health services (including the outcomes described in section 14Z34(3)).

14Z36 Duty to promote involvement of each patient

Each integrated care board must, in the exercise of its functions, promote the involvement of patients, and their carers and representatives (if any), in decisions which relate to—

- (a) the prevention or diagnosis of illness in the patients, or

- (b) their care or treatment.

14Z37 Duty as to patient choice

Each integrated care board must, in the exercise of its functions, act with a view to enabling patients to make choices with respect to aspects of health services provided to them.

14Z38 Duty to obtain appropriate advice

Each integrated care board must obtain advice appropriate for enabling it effectively to discharge its functions from persons who (taken together) have a broad range of professional expertise in—

- (a) the prevention, diagnosis or treatment of illness, and
- (b) the protection or improvement of public health.

14Z39 Duty to promote innovation

Each integrated care board must, in the exercise of its functions, promote innovation in the provision of health services (including innovation in the arrangements made for their provision).

14Z40 Duty in respect of research

Each integrated care board must, in the exercise of its functions, facilitate or otherwise promote—

- (a) research on matters relevant to the health service, and
- (b) the use in the health service of evidence obtained from research.

14Z41 Duty to promote education and training

Each integrated care board must, in exercising its functions, have regard to the need to promote education and training for the persons mentioned in section 1F(1) so as to assist the Secretary of State and Health Education England in the discharge of the duty under that section.

14Z42 Duty to promote integration

- (1) Each integrated care board must exercise its functions with a view to securing that health services are provided in an integrated way where it considers that this would—
 - (a) improve the quality of those services (including the outcomes that are achieved from their provision),
 - (b) reduce inequalities between persons with respect to their ability to access those services, or
 - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
- (2) Each integrated care board must exercise its functions with a view to securing that the provision of health services is integrated with the provision of health-related services or social care services where it considers that this would—

- (a) improve the quality of the health services (including the outcomes that are achieved from the provision of those services),
- (b) reduce inequalities between persons with respect to their ability to access those services, or
- (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.

(3) In this section—

“health-related services” means services that may have an effect on the health of individuals but are not health services or social care services;

“social care services” means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970 or for the purposes of the Social Services and Well-being (Wales) Act 2014).

(4) For the purposes of this section, the provision of housing accommodation is a health-related service.

14Z43 Duty to have regard to wider effect of decisions

(1) In making a decision about the exercise of its functions, an integrated care board must have regard to all likely effects of the decision in relation to—

- (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.

(2) In subsection (1)—

- (a) the reference to a decision does not include a reference to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness;
- (b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
- (c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.

(3) In discharging the duty under this section, integrated care boards must have regard to guidance published by NHS England under section 13NB.

(4) In this section “relevant bodies” means—

- (a) NHS England,
- (b) integrated care boards,

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- (c) NHS trusts established under section 25, and
- (d) NHS foundation trusts.

14Z44 Duties as to climate change etc

- (1) Each integrated care board must, in the exercise of its functions, have regard to the need to—
 - (a) contribute towards compliance with—
 - (i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
 - (ii) section 5 of the Environment Act 2021 (environmental targets), and
 - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, integrated care boards must have regard to guidance published by NHS England under section 13ND.

Involvement of the public

14Z45 Public involvement and consultation by integrated care boards

- (1) This section applies in relation to any health services which are, or are to be, provided pursuant to arrangements made by an integrated care board in the exercise of its functions (“commissioning arrangements”).
- (2) The integrated care board must make arrangements to secure that individuals to whom the services are being or may be provided, and their carers and representatives (if any), are involved (whether by being consulted or provided with information or in other ways)—
 - (a) in the planning of the commissioning arrangements by the integrated care board,
 - (b) in the development and consideration of proposals by the integrated care board for changes in the commissioning arrangements where the implementation of the proposals would have an impact on—
 - (i) the manner in which the services are delivered to the individuals (at the point when the service is received by them), or
 - (ii) the range of health services available to them, and
 - (c) in decisions of the integrated care board affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.
- (3) This section does not require an integrated care board to make arrangements in relation to matters to which a trust special administrator’s draft or final report under section 65F or 65I relates before—
 - (a) in a case where the administrator’s report relates to an NHS trust, NHS England and the Secretary of State have made their decisions under section 65K(1) and (2), or

- (b) in a case where the administrator’s report relates to an NHS foundation trust, the Secretary of State is satisfied as mentioned in section 65KB(1) or 65KD(1) or makes a decision under section 65KD(9).

Joint exercise of functions with Local Health Boards

14Z46 Joint exercise of functions with Local Health Boards

- (1) Regulations may provide for any prescribed functions of an integrated care board to be exercised jointly with a Local Health Board.
- (2) The regulations may permit or require any functions that are exercisable jointly by an integrated care board and a Local Health Board by virtue of the regulations to be exercised by a joint committee of those bodies.
- (3) Arrangements made by virtue of this section do not affect the liability of an integrated care board for the exercise of any of its functions.

Additional powers of integrated care boards

14Z47 Raising additional income

- (1) An integrated care board has power to do anything specified in section 7(2)(a), (b) and (e) to (h) of the Health and Medicines Act 1988 (provision of goods etc) for the purpose of making additional income available for improving the health service.
- (2) An integrated care board may exercise a power conferred by subsection (1) only to the extent that its exercise does not to any significant extent interfere with the exercise by the board of its other functions.

14Z48 Power to make grants

- (1) An integrated care board may make payments—
 - (a) by way of grant to any of its partner NHS trusts or NHS foundation trusts;
 - (b) by way of grant or loan to a voluntary organisation which provides or arranges for the provision of services which are similar to the services in respect of which the integrated care board has functions.
- (2) The payments may be made subject to such terms as the integrated care board considers appropriate.
- (3) For the purposes of this Act an NHS trust or NHS foundation trust is a “partner” of an integrated care board if the trust—
 - (a) provides services for the purposes of the health service within the integrated care board’s area, and
 - (b) has the function, under the integrated care board’s constitution, of participating in the nomination of members as a result of falling within a description prescribed for the purposes paragraph 8(2)(a) of Schedule 1B.

Experience of members

14Z49 Duty to keep experience of members under review etc

An integrated care board must—

- (a) keep under review the skills, knowledge and experience that it considers necessary for members of the board to possess (when taken together) in order for the board effectively to carry out its functions, and
- (b) if it considers that the board as constituted lacks the necessary skills, knowledge and experience, take such steps as it considers necessary to address or mitigate that shortcoming.

NHS England's functions in relation to integrated care boards

14Z50 Responsibility for payments to providers

- (1) NHS England may publish a document specifying—
 - (a) circumstances in which an integrated care board is liable to make a payment to a person in respect of services provided by that person in pursuance of arrangements made by another integrated care board in the discharge of commissioning functions, and
 - (b) how the amount of any such payment is to be determined.
- (2) An integrated care board is required to make payments in accordance with any document published under subsection (1).
- (3) Where an integrated care board is required to make a payment by virtue of subsection (2), no other integrated care board is liable to make it.
- (4) Accordingly, any obligation of another integrated care board to make the payment ceases to have effect.
- (5) Any sums payable by virtue of subsection (2) may be recovered summarily as a civil debt (but this does not affect any other method of recovery).
- (6) NHS England may publish guidance for integrated care boards for the purpose of assisting them in understanding and applying any document published under subsection (1).
- (7) In this section “commissioning functions” means the functions of integrated care boards in arranging for the provision of services as part of the health service.

14Z51 Guidance by NHS England

- (1) NHS England must publish guidance for integrated care boards on the discharge of their functions.
- (2) Each integrated care board must have regard to guidance under this section.

Forward planning and reports

14Z52 Joint forward plans for integrated care board and its partners

- (1) Before the start of each financial year, an integrated care board and its partner NHS trusts and NHS foundation trusts must prepare a plan setting out how they propose to exercise their functions in the next five years.
- (2) The plan must, in particular—
 - (a) describe the health services for which the integrated care board proposes to make arrangements in the exercise of its functions by virtue of this Act;
 - (b) explain how the integrated care board proposes to discharge its duties under—
 - (i) sections 14Z34 to 14Z45 (general duties of integrated care boards), and
 - (ii) sections 223GB to 223N (financial duties);
 - (c) set out any steps that the integrated care board proposes to take to implement any joint local health and wellbeing strategy to which it is required to have regard under section 116B(1) of the Local Government and Public Involvement in Health Act 2007;
 - (d) set out any steps that the integrated care board proposes to take to address the particular needs of children and young persons under the age of 25;
 - (e) set out any steps that the integrated care board proposes to take to address the particular needs of victims of abuse (including domestic abuse and sexual abuse, whether of children or adults).
- (3) The integrated care board and its partner NHS trusts and NHS foundation trusts must publish the plan.
- (4) The integrated care board and its partner NHS trusts and NHS foundation trusts must give a copy of the plan to—
 - (a) the integrated care partnership for the board’s area,
 - (b) each relevant Health and Wellbeing Board, and
 - (c) NHS England.
- (5) NHS England may give a direction as to the date by which subsection (4) must be complied with.
- (6) An integrated care board and its partner NHS trusts and NHS foundation trusts must have regard to the plan under subsection (1).
- (7) In this Chapter “relevant Health and Wellbeing Board”, in relation to an integrated care board (or an integrated care board and its partner NHS trusts and NHS foundation trusts), means a Health and Wellbeing Board established by a local authority whose area coincides with, or includes the whole or any part of, the area of the integrated care board.
- (8) In this Act “financial year”, in relation to an integrated care board, means—
 - (a) the period beginning with the date on which the integrated care board is established and ending with the 31 March following that date, and

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- (b) each successive period of twelve months.

14Z53 Revision of forward plans

- (1) An integrated care board and its partner NHS trusts and NHS foundation trusts may revise a plan published under section 14Z52.
- (2) If the integrated care board and its partner NHS trusts and NHS foundation trusts revise the plan in a way that they consider to be significant, section 14Z52(3) and (4) apply in relation to the revised plan as they applied in relation to the original plan.
- (3) If the integrated care board and its partner NHS trusts and NHS foundation trusts revise the plan in any other way they must—
 - (a) publish a document setting out the changes, and
 - (b) give a copy of the document to—
 - (i) the integrated care partnership for the board’s area,
 - (ii) each relevant Health and Wellbeing Board, and
 - (iii) NHS England.

14Z54 Consultation about forward plans

- (1) This section applies where an integrated care board and its partner NHS trusts and NHS foundation trusts are—
 - (a) preparing a plan under section 14Z52, or
 - (b) revising a plan under section 14Z53 in a way that they consider to be significant.
- (2) The integrated care board and its partner NHS trusts and NHS foundation trusts must consult—
 - (a) the group of people for whom the integrated care board has core responsibility, and
 - (b) any other persons they consider it appropriate to consult.
- (3) The integrated care board and its partner NHS trusts and NHS foundation trusts must involve each relevant Health and Wellbeing Board in preparing or revising the plan.
- (4) The integrated care board and its partner NHS trusts and NHS foundation trusts must, in particular—
 - (a) give each relevant Health and Wellbeing Board a draft of the plan or (as the case may be) the plan as revised, and
 - (b) consult each relevant Health and Wellbeing Board on whether the draft takes proper account of each joint local health and wellbeing strategy published by it which relates to the period (or any part of the period) to which the plan relates.
- (5) Where a Health and Wellbeing Board is consulted under subsection (4)(b)—
 - (a) it must respond with its opinion on the matter mentioned there;
 - (b) it may also give that opinion to NHS England.

- (6) Where a Health and Wellbeing Board gives its opinion to NHS England under subsection (5)(b) it must inform the integrated care board and its partner NHS trusts and NHS foundation trusts that it has done so (unless it informed them, in advance, that it was planning to do so).
- (7) If an integrated care board and its partner NHS trusts and NHS foundation trusts revise or further revise a draft after it has been given to each relevant Health and Wellbeing Board under subsection (4), subsections (4) and (5) apply in relation to the revised draft as they applied in relation to the original draft.
- (8) An integrated care board and its partner NHS trusts and NHS foundation trusts must include in a plan published under section 14Z52(3)—
 - (a) a summary of the views expressed by anyone consulted under subsection (2),
 - (b) an explanation of how they took account of those views, and
 - (c) a statement of the final opinion of each relevant Health and Wellbeing Board consulted in relation to the plan under subsection (4).
- (9) In this section, “joint local health and wellbeing strategy” means a strategy under section 116A of the Local Government and Public Involvement in Health Act 2007.

14Z55 Opinion of Health and Wellbeing Boards on forward plan

- (1) A relevant Health and Wellbeing Board—
 - (a) may give NHS England its opinion on whether a plan published by an integrated care board and its partner NHS trusts and NHS foundation trusts under section 14Z52(3) takes proper account of each joint local health and wellbeing strategy published by the Health and Wellbeing Board which relates to the period (or any part of the period) to which the plan relates, and
 - (b) if it does so, must give the integrated care board and its partner NHS trusts and NHS foundation trusts a copy of its opinion.
- (2) In this section, “joint local health and wellbeing strategy” has the same meaning as in section 14Z54(9).

14Z56 Joint capital resource use plan for integrated care board and its partners

- (1) Before the start of each financial year, an integrated care board and its partner NHS trusts and NHS foundation trusts must prepare a plan setting out their planned capital resource use.
- (2) The plan must relate to such period as may be specified in a direction by the Secretary of State.
- (3) The Secretary of State must publish any direction under subsection (2).
- (4) The integrated care board and its partner NHS trusts and NHS foundation trusts must publish the plan.

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- (5) The integrated care board and its partner NHS trusts and NHS foundation trusts must give a copy of the plan to—
 - (a) the integrated care partnership for the board’s area,
 - (b) each relevant Health and Wellbeing Board, and
 - (c) NHS England.
- (6) NHS England may give a direction as to the date by which subsection (5) must be complied with.
- (7) NHS England may publish guidance about the discharge by an integrated care board and its partner NHS trusts and NHS foundation trusts of their functions under this section.
- (8) An integrated care board and its partner NHS trusts and NHS foundation trusts must have regard to any guidance published under subsection (7).
- (9) NHS England may give directions, in relation to a financial year—
 - (a) specifying descriptions of resources which must, or must not, be treated as capital resources for the purposes of this section;
 - (b) specifying uses of capital resources which must, or must not, be taken into account for the purposes of this section.
- (10) The reference in subsection (1) to the use of capital resources is a reference to its expenditure, consumption or reduction in value.

14Z57 Revision of joint capital resource use plans

- (1) An integrated care board and its partner NHS trusts and NHS foundation trusts may revise a plan published under section 14Z56.
- (2) If the integrated care board and its partner NHS trusts and NHS foundation trusts revise the plan in a way that they consider to be significant, section 14Z56(4) and (5) apply in relation to the revised plan as they applied in relation to the original plan.
- (3) If the integrated care board and its partner NHS trusts and NHS foundation trusts revise the plan in any other way, they must—
 - (a) publish a document setting out the changes, and
 - (b) give a copy of the document to—
 - (i) the integrated care partnership for the board’s area,
 - (ii) each relevant Health and Wellbeing Board, and
 - (iii) NHS England.

14Z58 Annual report

- (1) An integrated care board must, in each financial year, prepare a report (an “annual report”) on how it has discharged its functions in the previous financial year.
- (2) An annual report must, in particular—
 - (a) explain how the integrated care board has discharged its duties under sections 14Z34 to 14Z45 and 14Z49 (general duties of integrated care boards),

- (b) review the extent to which the board has exercised its functions in accordance with the plans published under—
 - section 14Z52 (forward plan), and
 - section 14Z56 (capital resource use plan),
 - (c) review the extent to which the board has exercised its functions consistently with NHS England’s views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised), and
 - (d) review any steps that the board has taken to implement any joint local health and wellbeing strategy to which it was required to have regard under section 116B(1) of the Local Government and Public Involvement in Health Act 2007.
- (3) In undertaking the review required by subsection (2)(d), an integrated care board must consult each relevant Health and Wellbeing Board.
- (4) An annual report must include—
- (a) a statement of the amount of expenditure incurred by the integrated care board during the financial year in relation to mental health,
 - (b) a calculation of the proportion of the expenditure incurred by the integrated care board during the financial year that relates to mental health, and
 - (c) an explanation of the statement and calculation.
- (5) NHS England may give directions to integrated care boards as to the form and content of an annual report.
- (6) An integrated care board must—
- (a) give a copy of its annual report to NHS England before the date specified by NHS England in a direction, and
 - (b) publish a copy of the annual report.

Performance assessment of integrated care boards

14Z59 Performance assessment of integrated care boards

- (1) NHS England must conduct a performance assessment of each integrated care board in respect of each financial year.
- (2) A performance assessment is an assessment of how well the integrated care board has discharged its functions during that year.
- (3) The assessment must, in particular, include an assessment of how well the integrated care board has discharged its duties under—
 - (a) section 14Z34 (improvement in quality of services),
 - (b) section 14Z35 (reducing inequalities),
 - (c) section 14Z38 (obtaining appropriate advice),
 - (d) section 14Z40 (duty in respect of research),
 - (e) section 14Z43 (duty to have regard to effect of decisions),
 - (f) section 14Z45 (public involvement and consultation),
 - (g) sections 223GB to 223N (financial duties), and

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- (h) section 116B(1) of the Local Government and Public Involvement in Health Act 2007 (duty to have regard to assessments and strategies).
- (4) In conducting a performance assessment, NHS England must consult each relevant Health and Wellbeing Board as to its views on any steps that the board has taken to implement any joint local health and wellbeing strategy to which the board was required to have regard under section 116B(1) of that Act of 2007.
- (5) In conducting a performance assessment, NHS England must, in particular, have regard to—
 - (a) any guidance published by the Secretary of State for the purposes of this section, and
 - (b) any guidance published under section 14Z51.
- (6) NHS England must publish a report in respect of each financial year containing a summary of the results of each performance assessment conducted by NHS England in respect of that year.

Power of NHS England to obtain information

14Z60 Power of NHS England to obtain information

- (1) NHS England may require an integrated care board to provide NHS England with information.
- (2) The information must be provided in such form, and at such time or within such period, as NHS England may require.

Intervention powers

14Z61 Power to give directions to integrated care boards

- (1) This section applies if NHS England is satisfied that—
 - (a) an integrated care board is failing or has failed to discharge any of its functions, or
 - (b) there is a significant risk that an integrated care board will fail to do so.
- (2) NHS England may direct the integrated care board to discharge such of those functions in such manner and within such period or periods as may be specified in the direction.
- (3) NHS England may direct—
 - (a) the integrated care board, or
 - (b) the chief executive of the integrated care board,
 to cease to perform any functions for such period or periods as may be specified in the direction.
- (4) NHS England may—
 - (a) terminate the appointment of the integrated care board’s chief executive, and

- (b) direct the chair of the board as to which individual to appoint as a replacement and on what terms.
- (5) Where a direction is given under subsection (3)(a) NHS England may—
- (a) exercise, on behalf of the integrated care board, any of the functions that are the subject of the direction;
 - (b) direct another integrated care board to perform any of those functions on behalf of the integrated care board, in such manner and within such period or periods as may be specified in the direction.
- (6) A direction under subsection (5)(b) may include provision prohibiting or restricting the integrated care board from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (7) In subsection (6) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (8) Where a direction is given under subsection (3)(b) NHS England may—
- (a) exercise, on behalf of the chief executive, any of the functions that are the subject of the direction;
 - (b) direct the chief executive of another integrated care board to perform any of those functions on behalf of the chief executive, in such manner and within such period or periods as may be specified in the direction.
- (9) For the purposes of this section—
- (a) a failure to discharge a function includes a failure to discharge it properly, and
 - (b) a failure to discharge a function properly includes a failure to discharge it consistently with what NHS England considers to be the interests of the health service.

14Z62 Section 14Z61 directions: consultation and cooperation

- (1) Before exercising the power conferred by section 14Z61(5)(b) or (8)(b) NHS England must consult the integrated care board to which it is proposing to give the direction or to whose chief executive it is proposing to give the direction.
- (2) Where a direction is given under section 14Z61(3)(b) to the chief executive of an integrated care board, that board must co-operate with any chief executive to whom a direction is given under subsection (8)(b).

Disclosure of information

14Z63 Permitted disclosures of information

- (1) An integrated care board may disclose information obtained by it in the exercise of its functions if—
- (a) the information has previously been lawfully disclosed to the public,
 - (b) the disclosure is made under or pursuant to regulations under section 113 or 114 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care or social services),

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- (c) the disclosure is made in accordance with any enactment or court order,
 - (d) the disclosure is necessary or expedient for the purposes of protecting the welfare of any individual,
 - (e) the disclosure is made to any person in circumstances where it is necessary or expedient for the person to have the information for the purpose of exercising functions of that person under any enactment,
 - (f) the disclosure is made for the purpose of facilitating the exercise of any of the integrated care board’s functions,
 - (g) the disclosure is made in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or
 - (h) the disclosure is made for the purpose of criminal proceedings (whether or not in the United Kingdom).
- (2) Subsection (1)(a) to (c) and (h) have effect notwithstanding any rule of common law which would otherwise prohibit or restrict the disclosure.

Interpretation

14Z64 Interpretation

In this Chapter—

“the health service” means the health service in England;

“health services” means services provided as part of the health service;

“integrated care partnership” has the meaning given by section 116ZA(1) of the Local Government and Public Involvement in Health Act 2007;

“relevant Health and Wellbeing Board”, in relation to an integrated care board, has the meaning given by section 14Z52(7).”

- (3) In section 48 (power to obtain information from NHS foundation trust)—
- (a) after subsection (1) insert—

“(1A) An integrated care board may require any of its partner NHS foundation trusts to provide it with any information that it requires.”;
 - (b) for subsection (2) substitute—

“(2) Information required under this section must be provided in such form, and at such time or within such period, as may be specified by the person imposing the requirement.”
- (4) In Schedule 4 (NHS trusts: constitution etc), in paragraph 13—
- (a) the existing provision becomes sub-paragraph (1);
 - (b) after that sub-paragraph insert—

“(2) An integrated care board may require any of its partner NHS trusts to provide it with any information that it requires.

(3) Information required under sub-paragraph (2) must be provided in such form, and at such time or within such period, as may be specified by the integrated care board.”

Integrated care partnerships

26 Integrated care partnerships and strategies

- (1) The Local Government and Public Involvement in Health Act 2007 is amended in accordance with subsections (2) to (6).
- (2) In section 104 (interpretation: partner authorities), in subsection (2), for paragraph (ja) substitute—
 - “(ja) an integrated care board;”.
- (3) In section 116 (health and social care: joint strategic needs assessments)—
 - (a) in subsection (4), for paragraph (b) substitute—
 - “(b) each of its partner integrated care boards;”;
 - (b) after subsection (5) insert—
 - “(5A) The responsible local authority must give a copy of each assessment of relevant needs prepared under this section to any integrated care partnership established under section 116ZA whose area coincides with or includes the whole or part of the area of the responsible local authority.”;
 - (c) in subsections (6) and (7), for “clinical commissioning group”, in each place it occurs, substitute “integrated care board”;
 - (d) in subsection (8), for “clinical commissioning groups” substitute “integrated care boards”;
 - (e) in subsections (8A) and (9), for “clinical commissioning group”, in each place it occurs, substitute “integrated care board”.
- (4) After section 116 insert—

“116ZA Integrated care partnerships

- (1) An integrated care board and each responsible local authority whose area coincides with or falls wholly or partly within the board’s area must establish a joint committee for the board’s area (an “integrated care partnership”).
- (2) The integrated care partnership for an area is to consist of—
 - (a) one member appointed by the integrated care board,
 - (b) one member appointed by each of the responsible local authorities, and
 - (c) any members appointed by the integrated care partnership.
- (3) An integrated care partnership may determine its own procedure (including quorum).

116ZB Integrated care strategies

- (1) An integrated care partnership must prepare a strategy (an “integrated care strategy”) setting out how the assessed needs in relation to its area are to be met by the exercise of functions of—
 - (a) the integrated care board for its area,
 - (b) NHS England, or

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- (c) the responsible local authorities whose areas coincide with or fall wholly or partly within its area.
- (2) In preparing a strategy under this section, an integrated care partnership must, in particular, consider the extent to which the needs could be met more effectively by the making of arrangements under section 75 of the National Health Service Act 2006 (rather than in any other way).
- (3) In preparing a strategy under this section, an integrated care partnership must have regard to—
 - (a) the mandate published by the Secretary of State under section 13A of the National Health Service Act 2006, and
 - (b) any guidance issued by the Secretary of State.
- (4) In preparing a strategy under this section, an integrated care partnership must—
 - (a) involve the Local Healthwatch organisations whose areas coincide with or fall wholly or partly within its area, and
 - (b) involve the people who live or work in that area.
- (5) An integrated care partnership may include in a strategy under this section a statement of its views on how arrangements for the provision of health-related services in its area could be more closely integrated with arrangements for the provision of health services and social care services in that area.
- (6) Each time that an integrated care partnership receives an assessment of relevant needs under section 116(5A) it must—
 - (a) consider whether the current integrated care strategy should be revised, and
 - (b) if so, prepare a revised integrated care strategy under subsection (1).
- (7) An integrated care partnership must—
 - (a) publish each integrated care strategy, and
 - (b) give a copy of each integrated care strategy to—
 - (i) each responsible local authority whose area coincides with or falls wholly or partly within its area, and
 - (ii) each partner integrated care board of those responsible local authorities.
- (8) In this section—
 - (a) “assessed needs”, in relation to the area of an integrated care partnership, means the needs assessed under section 116 in relation to the areas of the responsible local authorities so far as those needs relate to the integrated care partnership’s area;
 - (b) “partner integrated care board”, in relation to a responsible local authority, has the same meaning as in section 116;
 - (c) “health services”, “health-related services” and “social care services” have the same meaning as in section 195 of the Health and Social Care Act 2012.”
- (5) In section 116A (health and social care: joint health and wellbeing strategies)—
 - (a) in the heading, after “joint” insert “local”;
 - (b) for subsections (1) and (2) substitute—

- “(1) This section applies where a responsible local authority and each of its partner integrated care boards receive an integrated care strategy under section 116ZB(7)(b).
- (2) The responsible local authority and each of its partner integrated care boards must prepare a strategy (“a joint local health and wellbeing strategy”) setting out how the assessed needs in relation to the responsible local authority’s area are to be met by the exercise of functions of—
- (a) the responsible local authority,
 - (b) its partner integrated care boards, or
 - (c) NHS England.
- (2A) But the responsible local authority and its partner integrated care boards need not prepare a new joint local health and wellbeing strategy if, having considered the integrated care strategy, they consider that the existing joint local health and wellbeing strategy is sufficient.”;
- (c) in subsection (3)—
- (i) for “clinical commissioning groups” substitute “integrated care boards”;
 - (ii) after “the extent to which the” insert “assessed”;
- (d) in subsection (4)—
- (i) for “clinical commissioning groups” substitute “integrated care boards”;
 - (ii) before paragraph (a) insert—
 - “(za) the integrated care strategy prepared under section 116ZB,”;
- (e) in subsections (5) and (7), for “clinical commissioning groups” substitute “integrated care boards”;
- (f) in subsection (8), for paragraph (a) (including the “and” at the end) substitute—
- “(a) “partner integrated care board”, in relation to a responsible local authority, has the same meaning as in section 116,
 - (aa) “assessed needs”, in relation to the area of a local authority, means the needs assessed in relation to its area under section 116, and”.
- (6) For section 116B substitute—

“116B Duty to have regard to assessments and strategies

- (1) A responsible local authority and each of its partner integrated care boards must, in exercising any functions, have regard to the following so far as relevant—
- (a) any assessment of relevant needs prepared under section 116 in relation to the responsible local authority’s area,
 - (b) any integrated care strategy prepared under section 116ZB in relation to an area that coincides with or includes the whole or part of the responsible local authority’s area, and

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- (c) any joint local health and wellbeing strategy prepared under section 116A by the responsible local authority and its partner integrated care boards.
- (2) NHS England must, in exercising any functions in arranging for the provision of health services in relation to the area of a responsible local authority, have regard to the following so far as relevant—
- (a) any assessment of relevant needs prepared under section 116 in relation to that area,
 - (b) any integrated care strategy prepared under section 116ZB in relation to an area that coincides with or includes the whole or part of that area, and
 - (c) any joint local health and wellbeing strategy prepared under section 116A by the responsible local authority and its partner integrated care boards.”
- (7) In the following provisions after “joint” insert “local”—
- (a) section 17(6)(g) and (h) of the National Health Service (Wales) Act 2006;
 - (b) sections 26(7) and 27(4) of the Children and Families Act 2014.

Integrated care system: financial controls

27 NHS England’s financial responsibilities

For sections 223C to 223E of the National Health Service Act 2006 substitute—

“223C Financial duties of NHS England: expenditure

- (1) NHS England must exercise its functions with a view to ensuring that expenditure incurred by the following bodies in a financial year (taken together) does not exceed the aggregate of any sums received by them in the year—
 - (a) NHS England;
 - (b) integrated care boards.
- (2) The Secretary of State may by direction—
 - (a) specify descriptions of expenditure that are, or are not, to be treated for the purposes of this section as expenditure incurred by a body, or expenditure incurred by it in a particular financial year;
 - (b) specify descriptions of sums that are, or are not, to be treated for the purposes of this section as having been received by a body, or as having been received by it in a particular financial year;
 - (c) provide for sums received by NHS England under section 223B in a year but not spent to be treated for the purposes of this section as expenditure incurred by it in a particular financial year;
 - (d) provide for sums received by an integrated care board under section 223G in a year but not spent to be treated for the purposes of this section as expenditure incurred by it in a particular financial year.
- (3) For the purposes of this section any sum allotted to NHS England for a year under section 223B is to be treated as received by it in that year (subject to any direction under subsection (2)(b)).

223CA NHS England: banking facilities

The Secretary of State may by direction require NHS England to use banking facilities specified in the direction for any purposes so specified.

223D Financial duties of NHS England: controls on total resource use

- (1) NHS England must exercise its functions with a view to ensuring that, in respect of each financial year—
 - (a) total capital resource use does not exceed the limit specified in a direction by the Secretary of State;
 - (b) total revenue resource use does not exceed the limit specified in a direction by the Secretary of State.
- (2) In subsection (1) “total capital resource use” and “total revenue resource use” means the use of capital resources or (as the case may be) revenue resources by relevant NHS bodies, other than use that consists of the transfer of resources between relevant NHS bodies.
- (3) In subsection (2) “relevant NHS bodies” means—
 - (a) NHS England,
 - (b) integrated care boards,
 - (c) NHS trusts established under section 25, and
 - (d) NHS foundation trusts.
- (4) A direction under subsection (1)(a) or (b) specifying a limit in relation to a financial year may be varied by a subsequent direction only if—
 - (a) NHS England agrees to the change,
 - (b) a parliamentary general election takes place, or
 - (c) the Secretary of State considers that there are exceptional circumstances which make the variation necessary.
- (5) The Secretary of State must publish and lay before Parliament any directions under this section.
- (6) Any reference in this Chapter to the use of capital resources or revenue resources is a reference to their expenditure, consumption or reduction in value.

223E Financial duties of NHS England: additional controls on resource use

- (1) The Secretary of State may direct NHS England to ensure—
 - (a) that relevant capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified;
 - (b) that relevant revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.

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- (2) In subsection (1) “relevant capital resource use” and “relevant revenue resource use” means the use of capital resources or (as the case may be) revenue resources by NHS England and integrated care boards.
- (3) The Secretary of State may direct NHS England to ensure that NHS England’s use of revenue resources in a financial year which is attributable to such matters relating to administration as are specified in the direction does not exceed an amount so specified.”

28 Expansion of NHS England’s duties in respect of expenditure

In section 223C of the National Health Service Act 2006 (as substituted by section 27 of this Act), in subsection (1), after paragraph (b) insert—

- “(c) NHS trusts established under section 25;
- (d) NHS foundation trusts.”

29 Financial responsibilities of integrated care boards and their partners

- (1) The National Health Service Act 2006 is amended as follows.
- (2) For the italic heading before section 223G substitute—

“Integrated care boards”.

- (3) After section 223GA insert—

“223GB Power to impose financial requirements on integrated care boards

- (1) NHS England may give integrated care boards directions about their management or use of financial or other resources.
- (2) The directions that may be given include a direction imposing limits on expenditure or resource use by integrated care boards.
- (3) NHS England must publish any directions under this section.

223GC Financial duties of integrated care boards: expenditure limits

- (1) An integrated care board must exercise its functions with a view to ensuring that expenditure incurred by the board in a financial year does not exceed the sums received by it in that year.
- (2) NHS England may by direction—
 - (a) specify descriptions of expenditure that are, or are not, to be treated for the purposes of this section as expenditure incurred by an integrated care board, or expenditure incurred by it in a particular financial year;
 - (b) specify descriptions of sums that are, or are not, to be treated for the purposes of this section as having been received by an integrated care board, or as having been received by it in a particular financial year;

- (c) provide for sums received by an integrated care board under section 223G in a year but not spent to be treated for the purposes of this section as expenditure incurred by it in a particular financial year.
- (3) For the purposes of this section any sum allotted to an integrated care board for a year under section 223G is to be treated as received by it in that year (subject to any direction under subsection (2)(b)).

223GD Integrated care boards: banking facilities

The Secretary of State may give integrated care boards directions requiring them to use specified banking facilities for any specified purposes.”

- (4) Omit sections 223H to 223J (financial duties of clinical commissioning groups).
- (5) After section 223K insert—

“Joint duties of an integrated care board and its partner NHS trusts and NHS foundation trusts

223L Joint financial objectives for integrated care boards etc

- (1) NHS England may set joint financial objectives for integrated care boards and their partner NHS trusts and NHS foundation trusts.
- (2) An integrated care board and its partner NHS trusts and NHS foundation trusts must seek to achieve any financial objectives set under this section.
- (3) Financial objectives under this section may apply to—
 - (a) integrated care boards and their partner NHS trusts and NHS foundation trusts generally,
 - (b) a particular integrated care board and its partner NHS trusts and NHS foundation trusts, or
 - (c) an integrated care board of a particular description and its partner NHS trusts and NHS foundation trusts.

223M Financial duties of integrated care boards etc: use of resources

- (1) Each integrated care board and its partner NHS trusts and NHS foundation trusts must exercise their functions with a view to ensuring that, in respect of each financial year—
 - (a) local capital resource use does not exceed the limit specified in a direction by NHS England;
 - (b) local revenue resource use does not exceed the limit specified in a direction by NHS England.
- (2) In this section “local capital resource use” and “local revenue resource use” means the use of capital resources or (as the case may be) revenue resources by the integrated care board and its partner NHS trusts and NHS foundation trusts, other than use that consists of the transfer of resources between those bodies.

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- (3) Where an NHS trust or NHS foundation trust is the partner of more than one integrated care board, its use of capital resources or revenue resources is to be apportioned for the purposes of this section to one or more of the integrated care boards in such manner as may be provided for in a direction by NHS England.
- (4) NHS England may by direction make provision for determining to which integrated care board, NHS trust or NHS foundation trust a use of capital resources or revenue resources is to be attributed for the purposes of this section.

223N Financial duties of integrated care boards etc: additional controls on resource use

- (1) NHS England may direct an integrated care board and its partner NHS trusts and NHS foundation trusts to exercise their functions with a view to—
 - (a) ensuring that local capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified;
 - (b) ensuring that local revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (2) A direction under subsection (1) may—
 - (a) specify descriptions of resources which must, or must not, be treated as local capital resources or local revenue resources for the purposes of the direction;
 - (b) specify uses of local capital resources or local revenue resources which must, or must not, be taken into account for the purposes of the direction.
- (3) Any directions given under section 223M(3) or (4) apply for the purposes of this section as they apply for the purposes of section 223M.
- (4) In this section “local capital resource use” and “local revenue resource use” have the meaning given by section 223M(2).

Directions about resources etc to be taken into account

223O Resources etc relevant to section 223D, 223E or 223M

- The Secretary of State may give directions, in relation to a financial year—
- (a) specifying descriptions of resources which must, or must not, be treated as capital resources or revenue resources for the purposes of section 223D, 223E or 223M;
 - (b) specifying uses of capital resources or revenue resources which must, or must not, be taken into account for the purposes of section 223D, 223E or 223M.”

30 Expansion of financial duties of integrated care boards and their partners

- (1) The National Health Service Act 2006 is amended as follows.
- (2) Omit section 223GC (inserted by section 29 of this Act).
- (3) After section 223L (inserted by section 29 of this Act) insert—

“223LA Financial duties of integrated care boards etc: expenditure limits

- (1) An integrated care board and its partner NHS trusts and NHS foundation trusts must exercise their functions with a view to ensuring that their expenditure in a financial year (taken together) does not exceed the aggregate of any sums received by them in the year.
- (2) Where an NHS trust or NHS foundation trust is the partner of more than one integrated care board its receipts and expenditure are to be apportioned for the purposes of this section to one or more of the integrated care boards in such manner as may be provided for in a direction by NHS England.
- (3) NHS England may by direction—
 - (a) specify descriptions of expenditure that are, or are not, to be treated for the purposes of this section as expenditure incurred by a body, or expenditure incurred by it in a particular financial year;
 - (b) specify descriptions of sums that are, or are not, to be treated for the purposes of this section as having been received by a body, or as having been received by it in a particular financial year;
 - (c) provide for sums received by an integrated care board under section 223G in a year but not spent to be treated for the purposes of this section as expenditure by it in a particular financial year.
- (4) For the purposes of this section any sum allotted to an integrated care board for a year under section 223G is to be treated as received by it in that year (subject to any direction under subsection (3)(b)).”

Integrated care system: reviews and further amendments

31 Care Quality Commission reviews etc of integrated care system

- (1) Chapter 3 of Part 1 of the Health and Social Care Act 2008 (quality of health and social care) is amended as follows.
- (2) After section 46A (inserted by section 163 of this Act) insert—

“46B Reviews and performance assessments: integrated care system

- (1) The Commission must, in accordance with this section—
 - (a) conduct reviews of—
 - (i) the provision of relevant health care, and adult social care, within the area of each integrated care board, and
 - (ii) the exercise of the functions of the following in relation to the provision of that care within the area of each integrated care

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- board: the board; its partner local authorities; and registered service providers,
- (b) assess the functioning of the system for the provision of relevant health care, and adult social care, within the area of each integrated care board (taking into account, in particular, how those mentioned in paragraph (a)(ii) work together), and
 - (c) publish a report of its assessment.
- (2) The Secretary of State—
- (a) must set, and may from time to time revise, objectives and priorities for the Commission in relation to assessments under this section, and
 - (b) must inform the Commission of the objectives and priorities.
- (3) The priorities set by the Secretary of State under subsection (2)(a) must include priorities relating to leadership, the integration of services and the quality and safety of services.
- (4) The Commission—
- (a) must determine, and may from time to time revise, indicators of quality for the purposes of assessments under this section, and
 - (b) must obtain the approval of the Secretary of State in relation to the indicators.
- (5) The Secretary of State may direct the Commission to revise the indicators under subsection (4).
- (6) Different objectives and priorities may be set, and different indicators of quality may be determined, for different cases.
- (7) The Commission—
- (a) must prepare, and may from time to time revise, a statement—
 - (i) setting out the frequency with which reviews under this section are to be conducted and the period to which they are to relate, and
 - (ii) describing the method that it proposes to use in assessing and evaluating the functioning of the system for the provision of relevant health care, and adult social care, within the area of an integrated care board, and
 - (b) must obtain the approval of the Secretary of State in relation to the statement.
- (8) The statement may—
- (a) make different provision about frequency and period of reviews for different cases, and
 - (b) describe different methods for different cases.
- (9) Before preparing or revising a statement under subsection (7) the Commission must consult—
- (a) NHS England, and
 - (b) any other persons it considers appropriate.
- (10) The Secretary of State may direct the Commission to revise the statement under subsection (7).

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- (11) The Commission must publish—
- (a) the objectives and priorities under subsection (2),
 - (b) the indicators of quality under subsection (4), and
 - (c) the statement under subsection (7).
- (12) For the purposes of this section—
- “adult social care” means social care for individuals aged 18 or over;
- “partner local authority”, in relation to an integrated care board, means any English local authority whose area coincides with, or includes the whole or any part of, the area of the integrated care board;
- “registered service provider” means a person registered under Chapter 2 as a service provider;
- “relevant health care” means—
- (a) NHS care, or
 - (b) the promotion and protection of public health.
- (13) Regulations may amend the definition of “relevant health care” to include health care which is provided or commissioned by a public authority (but which does not amount to NHS care).”
- (3) In section 48 (special reviews and investigations), in subsection (2), after “46A” (inserted by section 163 of this Act) insert “or 46B”.
- (4) In section 50 (failings by English local authorities), in subsection (1), after “46A” (inserted by section 163 of this Act) insert “or 46B”.
- (5) In section 162 (orders and regulations: parliamentary control), in subsection (3), after paragraph (c) insert—
- “(c) regulations under section 46B(13) (amendment of definition of relevant health care).”

32 Integrated care system: further amendments

Schedule 4 contains minor and consequential amendments.

Merger of NHS bodies etc

33 Abolition of Monitor and transfer of functions to NHS England

- (1) Monitor is abolished.
- (2) Schedule 5 contains amendments to transfer Monitor’s functions to NHS England and related amendments.

34 Exercise by NHS England of new regulatory functions

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 13SA (inserted by section 11 of this Act) insert—

“Regulatory functions

13SB Minimising conflicts between regulatory and other functions

- (1) NHS England must make arrangements for—
- (a) minimising the risk of conflicts between the exercise of its regulatory functions and its other functions;
 - (b) managing any conflicts that arise.
- (2) In this Act “regulatory functions”, in relation to NHS England, means—
- (a) its functions under the provisions listed in subsection (3),
 - (b) its functions under Chapter 5A of Part 2 (trust special administrators) in relation to NHS foundation trusts, except for any functions that are conferred on it under section 65DA, 65F or 65G as a commissioner, and
 - (c) any other functions of NHS England so far as exercisable in connection with functions within paragraph (a) or (b).
- (3) Those provisions are—
- (a) in Part 2 of this Act, Chapter 5 (NHS foundation trusts);
 - (b) in Part 3 of the Health and Social Care Act 2012—
 - (i) Chapter 3 (licensing);
 - (ii) Chapter 4 (NHS payment scheme);
 - (iii) Chapter 5 (health special administration);
 - (iv) Chapter 6 (financial assistance in special administration cases).”
- (3) In section 13U (annual report), after subsection (2) insert—
- “(2A) The annual report must include a statement explaining what NHS England has done, during the financial year, to comply with its duties under section 13SB.”
- (4) In section 275 (interpretation), in subsection (1), at the appropriate place insert—
- ““regulatory functions”, in relation to NHS England, has the meaning given by section 13SB.”.

35 Modification of standard licence conditions

- (1) Section 100 of the Health and Social Care Act 2012 (modification of standard conditions) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Before making modifications under subsection (1) that NHS England consider to be a major change, NHS England must—
- (a) carry out an assessment of the likely impact of the modifications, or
 - (b) publish a statement setting out its reasons for concluding that such assessment is not needed.”
- (3) In subsection (2), for “such modifications” substitute “modifications under subsection (1)”.

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- (4) In subsection (4), after paragraph (b) insert—
- “(ba) set out any impact assessment carried out by NHS England under subsection (1A)(a),”.

36 Abolition of NHS Trust Development Authority

- (1) The Special Health Authority called the National Health Service Trust Development Authority is abolished.
- (2) The following are revoked—
- (a) the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012 (S.I. 2012/901);
 - (b) the National Health Service Trust Development Authority Regulations 2012 (S.I. 2012/922);
 - (c) the National Health Service Trust Development Authority (Directions and Miscellaneous Amendments etc.) Regulations 2016 (S.I. 2016/214).
- (3) In section 9 of the Mental Health Units (Use of Force) Act 2018 (investigation of deaths or serious injuries), omit paragraph (d).
- (4) In section 15 of the Domestic Abuse Act 2021 (duty to co-operate with the Domestic Abuse Commissioner), in subsection (7), omit paragraph (e) of the definition of “NHS body in England”.

37 Merger of bodies: consequential amendment

In section 1H of the National Health Service Act 2006 (NHS England and its general functions), in subsection (3)(b), before “so as to secure” insert “, NHS trusts established under section 25 and NHS foundation trusts”.

38 Transfer schemes in connection with abolished bodies

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities from Monitor or the National Health Service Trust Development Authority to NHS England.
- (2) The things that may be transferred under a transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (3) A transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;

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- (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision which is the same as or similar to the TUPE regulations;
 - (f) make other consequential, supplementary, incidental or transitional provision.
- (4) In subsection (3)(e), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (5) In this section references to rights and liabilities include rights and liabilities relating to a contract of employment.

39 Transfer schemes under section 38: taxation

- (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—
- (a) anything transferred under a scheme under section 38, or
 - (b) anything done for the purposes of, or in relation to, a transfer under such a scheme.
- (2) The provision which may be made under subsection (1)(a) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;
 - (b) anything transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred.
- (3) The provision which may be made under subsection (1)(b) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of or in relation to the transfer;
 - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.
- (5) In this section—
- “relevant tax” means income tax, corporation tax, capital gains tax, value added tax, stamp duty or stamp duty reserve tax;
 - “tax provision” means a provision of an enactment about a relevant tax.

Secretary of State's functions

40 Duties in respect of research

In section 1E of the National Health Service Act 2006 (duty as to research), after “must” insert “facilitate or otherwise”.

41 Report on assessing and meeting workforce needs

After section 1G of the National Health Service Act 2006 (but before the italic heading after it) insert—

“1GA Secretary of State’s duty to report on workforce systems

- (1) The Secretary of State must, at least once every five years, publish a report describing the system in place for assessing and meeting the workforce needs of the health service in England.
- (2) NHS England and Health Education England must assist in the preparation of a report under this section, if requested to do so by the Secretary of State.”

42 Arrangements for exercise of public health functions

For section 7A of the National Health Service Act 2006 substitute—

“7A Exercise of Secretary of State’s public health functions

- (1) The Secretary of State may arrange for any of the public health functions of the Secretary of State to be exercised by one or more relevant bodies.
- (2) In this section “relevant body” means—
 - (a) NHS England,
 - (b) an integrated care board,
 - (c) a local authority (within the meaning of section 2B),
 - (d) a combined authority, or
 - (e) such other body as may be prescribed.
- (3) Arrangements under this section may be made on such terms as may be agreed between the parties including—
 - (a) terms as to payment;
 - (b) terms prohibiting or restricting a relevant body from making delegation arrangements in relation to a function that is exercisable by it by virtue of arrangements under this section.
- (4) In subsection (3)(b) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (5) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a relevant body of any function by virtue of this section are enforceable by or against that body (and no other person).

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- (6) The reference in subsection (1) to the public health functions of the Secretary of State includes any functions of the Secretary of State exercisable in connection with those functions (including the powers conferred by section 12).”

43 Power of direction: public health functions

- (1) The National Health Service Act 2006 is amended as follows.
 (2) After section 7A (inserted by section 42 of this Act) insert—

“7B Directions requiring NHS bodies to exercise public health functions

- (1) The Secretary of State may by direction provide for any of the public health functions of the Secretary of State to be exercised by one or more relevant bodies.
- (2) In this section “relevant body” means—
- (a) NHS England, or
 - (b) an integrated care board.
- (3) A direction under subsection (1) may include provision prohibiting or restricting the relevant body from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (4) In subsection (3) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (5) The Secretary of State may make payments to a relevant body in respect of the exercise by it of a function by virtue of a direction under subsection (1).
- (6) The Secretary of State may give directions to an integrated care board as to the exercise by it of any functions by virtue of this section.
- (7) For power to give directions to NHS England as to the exercise of functions, see section 13ZC.
- (8) As soon as reasonably practicable after giving a direction under subsection (1) or (6), the Secretary of State must publish it.
- (9) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a relevant body of any function by virtue of this section are enforceable by or against it (and no other person).
- (10) The reference in subsection (1) to the public health functions of the Secretary of State includes any functions of the Secretary of State exercisable in connection with those functions (including the powers conferred by section 12).”
- (3) In section 73 (directions and regulations under Parts 1 and 2), in subsection (1), after paragraph (a) insert—
- “(aa) section 7B.”.

44 Power of direction: investigation functions

- (1) The National Health Service Act 2006 is amended as follows.

(2) After section 7B (inserted by section 43 of this Act) insert—

“7C Power of direction: investigation functions

- (1) The Secretary of State may direct—
 - (a) NHS England, or
 - (b) any other public body,to exercise any of the investigation functions which are specified in the direction.
- (2) A direction under subsection (1) may include provision prohibiting or restricting the body directed from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (3) In subsection (2) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (4) The Secretary of State may make payments to NHS England or any other body in respect of the exercise by it of a function by virtue of a direction under subsection (1).
- (5) The Secretary of State may give directions to any body on whom functions are conferred by virtue of subsection (1)(b) as to the exercise of those functions.
- (6) For power to give directions to NHS England as to the exercise of functions, see section 13ZC.
- (7) As soon as reasonably practicable after giving a direction under subsection (1) or (5), the Secretary of State must publish it.
- (8) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by NHS England or any other body of any function by virtue of this section are enforceable by or against it (and no other person).
- (9) In this section “the investigation functions” are functions which, immediately before the coming into force of section 36 of the Health and Care Act 2022, were exercised by the Special Health Authority called the National Health Service Trust Development Authority pursuant to—
 - (a) the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016 made under sections 7 and 8 of the National Health Service Act 2006, or
 - (b) the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) (Additional Investigatory Functions in respect of Maternity Cases) Directions 2018 made under sections 7 and 8 of the National Health Service Act 2006.

7D Transfer schemes in connection with a direction under section 7C

- (1) The Secretary of State may, in connection with a direction under section 7C, make one or more transfer schemes.
- (2) A “transfer scheme” is a scheme for the transfer to NHS England or any other public body of any property, rights or liabilities relating to the discharge of

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

functions pursuant to any directions made by the Secretary of State under the power conferred by section 7C.

- (3) The things that may be transferred under a transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (4) A transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by, or on behalf of or in relation to the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the TUPE regulations;
 - (g) make other consequential, supplementary, incidental or transitional provision.
- (5) A transfer scheme may provide—
- (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (6) In subsection (4)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (7) For the purposes of this section—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.
- (8) For the purposes of subsection (7)(a)—
- (a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual’s employment in the civil service are to be regarded as constituting the terms of the contract of employment.

7E Transfer schemes under section 7D: taxation

- (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—
- (a) anything transferred under a scheme under section 7D, or

- (b) anything done for the purposes of, or in relation to, a transfer under such a scheme.
- (2) The provision which may be made under subsection (1)(a) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;
 - (b) anything transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred.
- (3) The provision which may be made under subsection (1)(b) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of or in relation to the transfer;
 - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) In this section references to the transfer of property include the grant of a lease.
- (5) In this section—
- “relevant tax” means income tax, corporation tax, capital gains tax, value added tax, stamp duty or stamp duty reserve tax;
 - “tax provision” means a provision of an enactment about a relevant tax.”
- (3) In section 73 (directions and regulations under Parts 1 and 2), in subsection (1), after paragraph (aa) (inserted by section 43 of this Act) insert—
- “(ab) section 7C.”.
- (4) In section 272 (orders, regulations, rules and directions)—
- (a) in subsection (4), after “subsections” insert “(4A),”, and
 - (b) after that subsection insert—
- “(4A) A statutory instrument containing regulations under section 7E(1) is subject to annulment in pursuance of a resolution of the House of Commons.”

45 General power to direct NHS England

- (1) The National Health Service Act 2006 is amended as follows.
- (2) Before section 13Z1 (and the italic heading before it) insert—

“Powers of direction

13ZC Secretary of State directions as to exercise of NHS England functions

- (1) The Secretary of State may give NHS England directions as to the exercise of any of its functions.
- (2) The directions that may be given include a direction as to whether a power is to be exercised or not.
- (3) The directions that may be given include a direction as to—
 - (a) when or how a function is, or is not, to be exercised;
 - (b) conditions that must be met before a function is exercised (for example, conditions relating to the provision of information, consultation or approval);
 - (c) matters to be taken into account in exercising a function.
- (4) For exceptions to the power to give directions under subsection (1), see section 13ZD.
- (5) A direction under subsection (1) must include a statement that the Secretary of State considers the direction to be in the public interest.
- (6) As soon as reasonably practicable after giving a direction under subsection (1), the Secretary of State must publish it.
- (7) The fact that the Secretary of State has a function under any other enactment in relation to NHS England’s exercise of functions is not to be read as limiting the power conferred by subsection (1).
- (8) The reference in subsection (7) to a function of the Secretary of State does not include a function of making subordinate legislation.

13ZD Power to give directions: exceptions

- (1) A direction under section 13ZC may not be given in relation to a function relating to the appointment or employment of a person.
- (2) A direction under section 13ZC may not be given in relation to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness.
- (3) A direction under section 13ZC may not be given in relation to the provision of any drug, medicine or other treatment, or the use of any diagnostic technique, unless NICE has made a recommendation or issued guidance as to its clinical and cost effectiveness and the direction is not inconsistent with that recommendation or guidance.

13ZE Compliance with directions: significant failure

- (1) This section applies where—
 - (a) NHS England is given a direction under section 13ZC,

- (b) the direction —
 - (i) states that the Secretary of State considers that NHS England is failing or has failed to discharge any of its functions, and
 - (ii) states that the Secretary of State considers that the failure is significant and explains why,
 - (c) the direction states that it is given for the purposes of addressing that failure, and
 - (d) NHS England fails to comply with the direction.
- (2) The Secretary of State may—
- (a) discharge the functions to which the direction relates, or
 - (b) make arrangements for any other person to discharge them on the Secretary of State’s behalf.
- (3) Where the Secretary of State exercises the power under subsection (2), the Secretary of State must publish the reasons for doing so.
- (4) For the purpose of this section—
- (a) a failure to discharge a function includes a failure to discharge it properly, and
 - (b) a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service.

13ZF Secretary of State directions to provide information

- (1) The Secretary of State may direct NHS England to provide the Secretary of State with any documents or other information that may be specified in the direction.
 - (2) The directions that may be given include a direction to provide documents or other information that NHS England would need to obtain from others in the exercise of some other power.
 - (3) The directions may include provision as to—
 - (a) the form or manner in which the documents or information must be provided;
 - (b) the time at which or period within which the documents or information must be provided.”
- (3) Omit section 13Z2 (failure to discharge functions) and the italic heading before it.
- (4) In Schedule A1 (constitution of NHS England), omit paragraph 14 and the italic heading before it.

46 Reconfiguration of services: intervention powers

- (1) After section 68 of the National Health Service Act 2006 insert—

“Reconfiguration of NHS services

68A Reconfiguration of NHS services

Schedule 10A confers intervention powers on the Secretary of State in relation to the reconfiguration of NHS services.”

- (2) Schedule 6 inserts into the National Health Service Act 2006 a new Schedule 10A to that Act (intervention powers in relation to the reconfiguration of NHS services).

47 Review into NHS supply chains

- (1) The Secretary of State must carry out a review into the risk of slavery and human trafficking taking place in relation to people involved in NHS supply chains.
- (2) The Secretary of State may determine which NHS supply chains to consider as part of the review or otherwise limit the scope of the review.
- (3) But the review must at least consider a significant proportion of NHS supply chains for cotton-based products in relation to which companies formed under section 223 of the National Health Service Act 2006 (taken as a whole) exercise functions.
- (4) The Secretary of State must publish and lay before Parliament a report on the outcome of the review before the end of the period of 18 months beginning with the day on which this section comes into force.
- (5) The report must describe—
- (a) the scope of the review, and
 - (b) the methodology used in carrying out the review.
- (6) The report must include any views of the Secretary of State as to steps that should be taken to mitigate the risk mentioned in subsection (1).
- (7) NHS England must assist in the carrying out of the review or the preparation of the report under this section, if requested to do so by the Secretary of State.
- (8) In this section—

“health service in England” means the health service continued under section 1(1) of the National Health Service Act 2006;

“NHS supply chain” means the supply chain for providing goods or services for the purposes of the health service in England;

“slavery and human trafficking” has the meaning given by section 54(12) of the Modern Slavery Act 2015.

NHS trusts

48 NHS trusts in England

In the Health and Social Care Act 2012, omit section 179 (abolition of NHS trusts in England).

49 Removal of power to appoint trust funds and trustees

In Schedule 4 to the National Health Service Act 2006, omit paragraph 10 (power to appoint trustees for an NHS trust) and the italic heading before it.

50 Sections 48 and 49: consequential amendments

Schedule 7 contains amendments that are consequential on sections 48 and 49.

51 Licensing of NHS trusts

- (1) In the National Health Service (Licence Exemptions, etc) Regulations 2013 ([S.I. 2013/2677](#)), omit regulation 4 (which exempts NHS trusts in England from the requirement to hold a licence).
- (2) After section 87 of the Health and Social Care Act 2012 insert—

“87A Application and grant: NHS trusts

- (1) An NHS trust established under section 25 of the National Health Service Act 2006 is to be treated, on its establishment, as—
 - (a) having made an application for a licence under section 85, and
 - (b) having met the criteria for holding a licence for the time being published under section 86.
- (2) An NHS trust established under section 25 of the National Health Service Act 2006 before the day on which section 51(1) of the Health and Care Act 2022 comes into force is to be treated, for the purposes of subsection (1), as having been established on that day.”

52 NHS trusts: wider effect of decisions

After section 26 of the National Health Service Act 2006 insert—

“26A Duty to have regard to wider effect of decisions

- (1) In making a decision about the exercise of its functions, an NHS trust established under section 25 must have regard to all likely effects of the decision in relation to—
 - (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.
- (2) In subsection (1)—
 - (a) the reference to a decision does not include a reference to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness;

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

- (b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
- (c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.

(3) In discharging the duty under this section, NHS trusts must have regard to guidance published by NHS England under section 13NB.

(4) In this section “relevant bodies” means—

- (a) NHS England,
- (b) integrated care boards,
- (c) NHS trusts established under section 25, and
- (d) NHS foundation trusts.”

53 NHS trusts: duties in relation to climate change

After section 26A of the National Health Service Act 2006 (inserted by section 52 of this Act) insert—

“26B Duties in relation to climate change etc

- (1) An NHS trust established under section 25 must, in the exercise of its functions, have regard to the need to—
 - (a) contribute towards compliance with—
 - (i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
 - (ii) section 5 of the Environment Act 2021 (environmental targets), and
 - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS trusts must have regard to guidance published by NHS England under section 13ND.”

54 Oversight and support of NHS trusts

(1) The National Health Service Act 2006 is amended as follows.

(2) After section 27 insert—

“27A Oversight and support of NHS trusts

NHS England must—

- (a) monitor NHS trusts established under section 25 in the carrying out of their functions, and

- (b) provide such advice, guidance or other support as it considers appropriate to help NHS trusts established under section 25 in the carrying out of their functions.”
- (3) In Schedule 4—
 - (a) in paragraph 12 (reports etc), in sub-paragraph (1), for “the Secretary of State”, in both places it occurs, substitute “NHS England”;
 - (b) in paragraph 13 (provision of information by NHS trusts), in sub-paragraph (1) (as created by section 25(4) of this Act)—
 - (i) after “the Secretary of State” insert “or NHS England”;
 - (ii) for “he” substitute “the Secretary of State or NHS England”.

55 Directions to NHS trusts

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 27A (inserted by section 54 of this Act) insert—

“27B NHS England’s directions to NHS trusts

- (1) NHS England may give directions to an NHS trust established under section 25 about its exercise of any functions.
- (2) In so far as a direction under this section conflicts with a direction under section 8 or paragraph 25(3) of Schedule 4, it is of no effect.”
- (3) In section 73 (directions and regulations under Parts 1 and 2), in subsection (1), after paragraph (ba) (inserted by section 13 of this Act) insert—
 - “(bb) section 27B,”.
- (4) In Schedule 4—
 - (a) in paragraph 20 (additional income), in sub-paragraph (2)—
 - (i) omit the “and” at the end of paragraph (a);
 - (ii) at the end of paragraph (b) insert “, and
 - (c) in circumstances specified in directions under section 27B, with the consent of NHS England.”;
 - (b) in paragraph 25 (staff), in sub-paragraph (3), at the end insert “and any directions given by NHS England under section 27B”.

56 Recommendations about restructuring of NHS trusts

After section 27B of the National Health Service Act 2006 (inserted by section 55 of this Act) insert—

“27C Recommendations about restructuring

- (1) NHS England may—
 - (a) make recommendations to NHS trusts for or in connection with the making of restructuring applications;
 - (b) take such other steps as it considers appropriate to facilitate restructuring applications involving NHS trusts.

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

- (2) In this section “restructuring application”, in relation to an NHS trust, means an application by the NHS trust under—
- (a) section 56 (mergers involving NHS foundation trusts);
 - (b) section 56A (acquisitions by NHS foundation trusts);
 - (c) section 69A (transfer of property etc between NHS bodies);
 - (d) paragraph 28 of Schedule 4 (dissolution of NHS trusts).”

57 Intervention in NHS trusts

After section 27C of the National Health Service Act 2006 (inserted by section 56 of this Act) insert—

“27D Intervention in NHS trusts: recommendations etc by NHS England

- (1) If NHS England considers that Secretary of State ought to make an order under section 66(2) or 68(2) in relation to an NHS trust established under section 25, NHS England must—
- (a) make a recommendation to that effect,
 - (b) set out its reasons for the recommendation, and
 - (c) make any recommendations it considers appropriate as to the contents of the order.
- (2) NHS England must make any inquiries, and provide any other assistance, that the Secretary of State may require in connection with deciding whether to make an order under section 66(2) or 68(2) in relation to an NHS trust established under section 25 and, if so, on what terms.”

58 NHS trusts: conversion to NHS foundation trusts and dissolution

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 33 (application by NHS trusts to become NHS foundation trusts), in subsection (1), omit “, if the application is supported by the Secretary of State”.
- (3) In section 35 (authorisation of NHS foundation trusts), in subsection (1), after “if” insert “the Secretary of State approves the authorisation and”.
- (4) In section 57 (supplementary provision in connection with mergers and acquisitions with NHS foundation trusts), in subsection (5), after “Secretary of State” insert “or NHS England”.
- (5) In Schedule 4—
- (a) in paragraph 28 (power to dissolve NHS trusts)—
 - (i) in sub-paragraph (1), after “Secretary of State” insert “or NHS England”;
 - (ii) after sub-paragraph (1) insert—

“(1A) An order under this paragraph may be made by NHS England only with the approval of the Secretary of State.”;
 - (iii) in sub-paragraphs (2)(b) and (3), after “the Secretary of State” insert “or NHS England”;
 - (b) in paragraph 29 (transfers), for sub-paragraph (1) substitute—

“(1) If an NHS trust is dissolved under paragraph 28, the Secretary of State or NHS England may by order transfer, or provide for the transfer of, the property and liabilities of the NHS trust to the Secretary of State or an NHS body; and such an order may include provisions corresponding to those of paragraph 9.”;

- (c) in paragraph 30 (transfers: pensions etc), in sub-paragraph (1), after “he” insert “or NHS England”.

59 Appointment of chair of NHS trusts

In paragraph 3(1)(a) of Schedule 4 to the National Health Service Act 2006 (appointment of chair of board of directors of NHS trust), for “the Secretary of State” substitute “NHS England”.

60 Financial objectives for NHS trusts

In paragraph 2 of Schedule 5 of the National Health Service Act 2006 (financial obligations of NHS trusts), for sub-paragraphs (2) and (3) substitute—

“(2) NHS England may set financial objectives for NHS trusts.

(3) An NHS trust must achieve any financial objectives set under sub-paragraph (2).

(4) Financial objectives under sub-paragraph (2) may apply to NHS trusts generally, or to a particular NHS trust or NHS trusts of a particular description.”

NHS foundation trusts

61 Licensing of NHS foundation trusts

In section 88 of the Health and Social Care Act 2012 (application and grant of licenses: NHS foundation trusts), for subsection (1) substitute—

“(1) This section applies where—

- (a) an NHS trust becomes an NHS foundation trust in pursuance of section 36 of the National Health Service Act 2006 (effect of authorisation of NHS foundation trust), or
- (b) an NHS foundation trust is established under sections 56 or 56B of that Act (mergers and separations).”

62 Capital spending limits for NHS foundation trusts

(1) The National Health Service Act 2006 is amended as follows.

(2) After section 42A insert—

“42B Limits on capital expenditure

- (1) NHS England may make an order imposing a limit on the capital expenditure of an NHS foundation trust in respect of a single financial year.

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

- (2) The order must specify—
 - (a) the trust,
 - (b) the capital expenditure limit, and
 - (c) the financial year to which the limit relates.
- (3) NHS England must consult the trust before making the order.
- (4) NHS England must publish each order under this section.
- (5) An order under this section may be made at any time during or before the financial year to which it relates.
- (6) A trust that is the subject of an order under this section must not exceed the capital expenditure limit imposed by the order during the financial year to which it relates.
- (7) In this section “capital expenditure”, in relation to an NHS foundation trust, means expenditure of the trust which falls to be capitalised in its annual accounts.

42C Guidance in relation to orders under section 42B

- (1) NHS England must publish guidance about the exercise of its power to make orders under section 42B, including guidance about—
 - (a) the circumstances in which it is likely to make an order, and
 - (b) the method it will use to determine the capital expenditure limit.
 - (2) NHS England must consult the Secretary of State before it publishes guidance, or revised guidance, under this section.
 - (3) NHS England must have regard to the guidance in exercising its power to make orders under section 42B.”
- (3) In section 64 (orders and regulations under Chapter 5), in subsection (1), after “regulations” insert “, other than the power to make an order under section 42B,”.

63 Accounts, reports and forward plans

- (1) In the National Health Service Act 2006—
 - (a) in section 43, omit subsections (3B) and (3C) (requirements relating to content etc of forward plan for NHS foundation trusts);
 - (b) in paragraph 27 of Schedule 7, omit sub-paragraphs (2) and (3) (which require the forward plan to be prepared by the directors etc).
- (2) In the Health and Social Care Act 2012—
 - (a) omit section 155 (accounts: transfer of functions relating to accounts from the regulator to the Secretary of State);
 - (b) in section 156 omit—
 - (i) subsection (3) (power to provide for content of annual reports to be prescribed by regulations rather than determined by the regulator);
 - (ii) subsection (4) (duty to give forward plan to Secretary of State, rather than to the regulator).

64 NHS foundation trusts: joint exercise of functions

After section 47 of the National Health Service Act 2006 insert—

“47A Joint exercise of functions

An NHS foundation trust may enter into arrangements for the carrying out, on such terms as the NHS foundation trust considers appropriate, of any of its functions jointly with any other person.”

65 NHS foundation trusts: mergers, acquisitions and separations

(1) The National Health Service Act 2006 is amended as follows.

(2) In section 56 (mergers)—

- (a) in subsection (2), omit paragraph (a);
- (b) for subsection (4) substitute—

“(4) NHS England must grant the application if—

- (a) it is satisfied that such steps as are necessary to prepare for the dissolution of the trusts and the establishment of the new trust have been taken, and
- (b) the Secretary of State approves the grant of the application, and must otherwise refuse the application.”

(3) In section 56A (acquisitions)—

- (a) in subsection (3), omit paragraph (a) and the “and” at the end;
- (b) for subsection (4) substitute—

“(4) NHS England must grant the application if—

- (a) it is satisfied that such steps as are necessary to prepare for the acquisition have been taken, and
- (b) the Secretary of State approves the grant of the application, and must otherwise refuse the application.”

(4) In section 56B (separations), for subsection (4) substitute—

“(4) NHS England must grant the application if—

- (a) it is satisfied that such steps as are necessary to prepare for the dissolution of the trust and the establishment of each of the proposed new trusts have been taken, and
- (b) the Secretary of State approves the grant of the application, and must otherwise refuse the application.”

66 Transfers on dissolution of NHS foundation trusts

In section 57A of the National Health Service Act 2006 (dissolution)—

- (a) in subsection (3), omit paragraph (a) and the “and” at the end;
- (b) in subsection (4), for paragraph (b) substitute—
 - “(b) transferring, or providing for the transfer of, the property and liabilities (including criminal liabilities) to another NHS

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

foundation trust, an NHS trust established under section 25 or the Secretary of State.”;

(c) after subsection (4) insert—

“(5) The order must include provision for the transfer of any employees of the NHS foundation trust that is dissolved.”

67 NHS foundation trusts: wider effect of decisions

In the National Health Service Act 2006, after section 63 insert—

“63A Duty to have regard to wider effect of decisions

- (1) In making a decision about the exercise of its functions, an NHS foundation trust must have regard to all likely effects of the decision in relation to—
- (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.
- (2) In subsection (1)—
- (a) the reference to a decision does not include a reference to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness;
 - (b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
 - (c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.
- (3) In discharging the duty under this section, NHS foundation trusts must have regard to guidance published by NHS England under section 13NB.
- (4) In this section “relevant bodies” means—
- (a) NHS England,
 - (b) integrated care boards,
 - (c) NHS trusts established under section 25, and
 - (d) NHS foundation trusts.”

68 NHS foundation trusts: duties in relation to climate change

After section 63A of the National Health Service Act 2006 (inserted by section 67 of this Act) insert—

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

“63B Duties in relation to climate change etc

- (1) An NHS foundation trust must, in the exercise of its functions, have regard to the need to—
 - (a) contribute towards compliance with—
 - (i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
 - (ii) section 5 of the Environment Act 2021 (environmental targets), and
 - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS foundation trusts must have regard to guidance published by NHS England under section 13ND.”

NHS trusts and NHS foundation trusts

69 Transfer schemes between trusts

After section 69 of the National Health Service Act 2006 insert—

“Transfer schemes

69A Transfer schemes: NHS trusts and NHS foundation trusts

- (1) NHS England may make one or more schemes for the transfer of property, rights and liabilities from a relevant NHS body to another relevant NHS body on an application made to it under this section.
- (2) The application must—
 - (a) be made jointly by the relevant NHS bodies, and
 - (b) state the property, rights or liabilities to be transferred.
- (3) NHS England may grant an application under this section only if it is satisfied that such steps as are necessary to prepare for the transfer have been taken.
- (4) The things that may be transferred under a transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (5) A transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;

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

- (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the TUPE regulations;
 - (g) make other consequential, supplementary, incidental or transitional provision.
- (6) A transfer scheme may provide—
- (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (7) In this section—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.
- (8) In this section—
- “relevant NHS body” means—
 - (a) an NHS trust established under section 25;
 - (b) an NHS foundation trust;
 - “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).”

70 Trust special administrators

Schedule 8 contains amendments to Chapter 5A of the National Health Service Act 2006 (which transfer functions to NHS England in relation to trust special administrators).

Joint working and delegation of functions

71 Joint working and delegation arrangements

- (1) The National Health Service Act 2006 is amended as follows.
- (2) After section 65Z4 (inserted by section 14 of this Act) insert—

“Joint working arrangements and delegation

65Z5 Joint working and delegation arrangements

- (1) A relevant body may arrange for any functions exercisable by it to be exercised by or jointly with any one or more of the following—
 - (a) a relevant body;

- (b) a local authority (within the meaning of section 2B);
 - (c) a combined authority.
- (2) In this section “relevant body” means—
 - (a) NHS England,
 - (b) an integrated care board,
 - (c) an NHS trust established under section 25,
 - (d) an NHS foundation trust, or
 - (e) such other body as may be prescribed.
- (3) Regulations may—
 - (a) provide that the power in subsection (1) does not apply, or applies only to a prescribed extent, in relation to prescribed functions;
 - (b) impose conditions on the exercise of the power.
- (4) Arrangements under this section may be made on such terms as may be agreed between the parties, including—
 - (a) terms as to payment;
 - (b) terms prohibiting or restricting a body from making delegation arrangements in relation to a function that is exercisable by it by virtue of arrangements under this section.
- (5) In subsection (4)(b) “delegation arrangements” means arrangements made by a body for the exercise of a function by someone else.
- (6) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a body of any function by virtue of this section are enforceable by or against that body (and no other person).

65Z6 Joint committees and pooled funds

- (1) This section applies where a function is exercisable jointly (by virtue of section 65Z5 or otherwise) by a relevant body and any one or more of the following—
 - (a) a relevant body;
 - (b) a local authority (within the meaning of section 2B);
 - (c) a combined authority.
- (2) The bodies by whom the function is exercisable jointly may—
 - (a) arrange for the function to be exercised by a joint committee of theirs;
 - (b) arrange for one or more of the bodies, or a joint committee of the bodies, to establish and maintain a pooled fund.
- (3) A pooled fund is a fund—
 - (a) which is made up of payments received in accordance with the arrangements from relevant bodies that are party to the arrangements, and
 - (b) out of which payments may be made in accordance with the arrangements towards expenditure incurred in the exercise of functions in relation to which the arrangements are made.

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

- (4) Arrangements under this section may be made on such terms as may be agreed between the parties, including terms as to payment.
- (5) In this section “relevant body” has the meaning given by section 65Z5(2).

65Z7 Joint working and delegation: guidance by NHS England

- (1) NHS England may publish guidance for relevant bodies about the exercise of their powers under sections 65Z5 and 65Z6.
- (2) A relevant body must have regard to any guidance published under this section.
- (3) In this section “relevant body” has the meaning given by section 65Z5(2).”
- (3) In section 75(7B)—
 - (a) at the end of paragraph (a) insert “or”;
 - (b) for paragraphs (b) and (c) substitute—
 - “(b) section 65Z5 (joint working and delegation arrangements).”
- (4) In consequence of subsection (2), omit sections 13Z to 13ZB and the italic heading before those sections.

72 References to functions: treatment of delegation arrangements etc

- (1) After section 275 of the National Health Service Act 2006 insert—

“275A References to functions: delegation etc

- (1) A reference in this Act to the functions of a person includes functions of others that are exercisable by the person by virtue of any provision of any enactment (unless the context otherwise requires).
- (2) Regulations may create exceptions to subsection (1).”
- (2) Schedule 9 contains—
 - (a) amendments that are consequential on this section and other provisions of this Part, and
 - (b) other related amendments.

Collaborative working

73 Repeal of duties to promote autonomy

- (1) In the National Health Service Act 2006 omit—
 - (a) section 1D (Secretary of State’s duty to promote autonomy);
 - (b) section 13F (NHS Commissioning Board’s duty to promote autonomy).
- (2) In consequence of subsection (1), in the Health and Social Care Act 2012, omit section 5.

74 Guidance about joint appointments

After section 13U of the National Health Service Act 2006 insert—

“Joint appointments

13UA Guidance about joint appointments

- (1) NHS England may publish guidance for a relevant NHS body about the making of a joint appointment to which this section applies.
- (2) A joint appointment to which this section applies is an appointment of a person to a position in—
 - (a) one or more relevant NHS commissioner and one or more relevant NHS provider,
 - (b) one or more relevant NHS body and one or more local authority, or
 - (c) one or more relevant NHS body and one or more combined authority.
- (3) A relevant NHS body must have regard to guidance published under this section.
- (4) NHS England must consult such persons as NHS England considers appropriate—
 - (a) before it first publishes guidance under this section, and
 - (b) before it publishes any revised guidance containing changes that are, in the opinion of NHS England, significant.
- (5) In this section—
 - “local authority” has the same meaning as in section 2B;
 - “relevant NHS body” means—
 - (a) a relevant NHS commissioner;
 - (b) a relevant NHS provider;
 - “relevant NHS commissioner” means—
 - (a) NHS England;
 - (b) an integrated care board;
 - “relevant NHS provider” means—
 - (a) an NHS trust established under section 25;
 - (b) an NHS foundation trust.”

75 Co-operation by NHS bodies etc

- (1) The National Health Service Act 2006 is amended in accordance with subsections (2) and (3).
- (2) In section 72 (co-operation between NHS bodies)—
 - (a) after subsection (1) insert—
 - “(1A) The Secretary of State may publish guidance on the discharge of the duty under subsection (1) in relation to England.
 - (1B) An NHS body other than a Welsh NHS body must have regard to any guidance published under subsection (1A).”;

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

- (b) after subsection (4) insert—
 - “(5) In this section “Welsh NHS body” means—
 - (a) an NHS trust established under the National Health Service (Wales) Act 2006,
 - (b) a Special Health Authority established under that Act, or
 - (c) a Local Health Board.”
- (3) In section 82 (co-operation between NHS bodies and local authorities)—
 - (a) the existing words become subsection (1);
 - (b) after that subsection insert—
 - “(2) The Secretary of State may publish guidance on the discharge of the duty under this section in relation to England.
 - (3) The following must have regard to any guidance published under subsection (2)—
 - (a) an NHS body other than a Welsh NHS body;
 - (b) a local authority in England.
 - (4) In this section “Welsh NHS body” means—
 - (a) an NHS trust established under the National Health Service (Wales) Act 2006,
 - (b) a Special Health Authority established under that Act, or
 - (c) a Local Health Board.”
- (4) In the Health and Social Care Act 2012, in section 96 (limits on functions to set or modify licence conditions)—
 - (a) in subsection (2), for paragraph (g) substitute—
 - “(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);”;
 - (b) in subsection (3), in the words before paragraph (a), for “(f) and (g)” substitute “and (f)”.

76 Wider effect of decisions: licensing of health care providers

In section 96 of the Health and Social Care Act 2012 (limits on functions to set or modify licence conditions)—

- (a) in subsection (2), after paragraph (d) insert—
 - “(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);”;
- (b) after subsection (2) insert—

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

- “(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,
- (b) integrated care boards,
- (c) NHS trusts established under section 25, and
- (d) NHS foundation trusts.”

NHS payment scheme

77 The NHS payment scheme

Schedule 10—

- (a) replaces the national tariff with the NHS payment scheme, and
- (b) makes provision relating to the NHS payment scheme.

Patient choice and procurement

78 Regulations as to patient choice

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 6E (standing rules)—
 - (a) in subsection (1)—
 - (i) for “may” substitute “must”;
 - (ii) for “or” substitute “and”;

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

(b) after subsection (1) insert—

“(1A) The regulations must make provision as to the arrangements that NHS England and integrated care boards must make, in exercising their commissioning functions, for enabling persons to whom specified treatments or other specified services are to be provided to make choices with respect to specified aspects of them.

(1B) The regulations may make other provision for the purpose of securing that, in exercising their commissioning functions, NHS England and integrated care boards protect and promote the rights of persons to make choices in relation to treatments or other services, where those rights—

- (a) arise by virtue of regulations under subsection (1A), or
- (b) are described in the NHS Constitution.”;

(c) omit subsection (2)(c).

(3) After section 6E insert—

“6F Enforcement of section 6E regulations relating to patient choice

(1) NHS England may investigate whether an integrated care board has failed or is likely to fail to comply with a requirement imposed by regulations under section 6E(1A) or (1B) (a “patient choice requirement”).

(2) NHS England may direct an integrated care board—

- (a) to put in place measures for the purpose of preventing failures to comply with patient choice requirements or mitigating the effect of such failures, or
- (b) where an investigation under subsection (1) has been carried out, to remedy a failure to comply with patient choice requirements.

(3) Where an investigation under subsection (1) is being or has been carried out, NHS England may accept from the integrated care board an undertaking that it will take any action falling within subsection (2)(a) or (b) that is specified in the undertaking, within a period that is so specified.

(4) Where NHS England accepts an undertaking under subsection (3), NHS England may not—

- (a) continue to carry out any ongoing investigation under subsection (1) so far as relating to matters to which the undertaking relates, or
- (b) give a direction under subsection (2) in relation to those matters, unless the integrated care board fails to comply with the undertaking.

(5) If an integrated care board from which NHS England has accepted an undertaking under subsection (3) complies partially with the undertaking, NHS England must take the partial compliance into account in deciding whether to do something mentioned in subsection (4)(a) or (b).

(6) Schedule 1ZA makes further provision about undertakings.

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

6G Guidance relating to patient choice

- (1) NHS England must publish guidance about how it intends to exercise powers conferred on it by section 6F and Schedule 1ZA.
- (2) Before publishing guidance under this section, NHS England must obtain the approval of the Secretary of State.”
- (4) In section 13U (annual report), in subsection (2)(c), for the words from “sections” to the end substitute “or by virtue of—
section 6E(1A) and (1B);
section 13E;
section 13G;
section 13I;
section 13Q.”
- (5) Schedule 11 inserts into the National Health Service Act 2006 a new Schedule 1ZA (undertakings by integrated care boards).

79 Procurement regulations

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

“Procurement

12ZB Procurement regulations

- (1) Regulations may make provision in relation to the processes to be followed and objectives to be pursued by relevant authorities in the procurement of—
 - (a) health care services for the purposes of the health service in England, and
 - (b) other goods or services that are procured together with those health care services.
- (2) Regulations under subsection (1) must include provision specifying steps to be taken when following a competitive tendering process.
- (3) Regulations under subsection (1) must, in relation to the procurement of all health care services to which they apply, make provision for the purposes of—
 - (a) ensuring transparency;
 - (b) ensuring fairness;
 - (c) ensuring that compliance can be verified;
 - (d) managing conflicts of interest.
- (4) NHS England must publish such guidance as it considers appropriate about compliance with the regulations.
- (5) A relevant authority must have regard to guidance published under this section.
- (6) Before publishing guidance under this section, NHS England must obtain the approval of the Secretary of State.

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

(7) In this section—

“health care service” has the same meaning as in Part 3 of the Health and Social Care Act 2012 (see section 150 of that Act);

“relevant authority” means—

- (a) a combined authority;
- (b) an integrated care board;
- (c) a local authority in England;
- (d) NHS England;
- (e) an NHS foundation trust;
- (f) an NHS trust established under section 25.”

80 Procurement and patient choice: consequential amendments etc

(1) In the National Health Service Act 2006—

- (a) in section 12E (Secretary of State’s duty as respects variation in provision of health services), for subsection (2) substitute—

“(2) The functions mentioned in this subsection are the functions of the Secretary of State under—

- (a) section 6E;
- (b) section 12ZB;
- (c) section 13A.”;
- (b) in section 272 (orders, regulations, rules and directions), in subsection (6), after paragraph (zzd), insert—

“(zze) regulations under section 12ZB.”.

- (2) Omit sections 75 to 78 of, and Schedule 9 to, the Health and Social Care Act 2012 (regulations etc relating to procurement, patient choice and competition).
- (3) In section 40 of the Small Business, Enterprise and Employment Act 2015 (investigation of procurement functions), in subsection (7), omit paragraph (b) and the “or” before it.
- (4) The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 ([S.I. 2013/500](#)) are revoked.

81 Eradicating slavery and human trafficking in supply chains

(1) The National Health Service Act 2006 is amended as follows.

(2) After section 12ZB (inserted by section 79) insert—

“12ZC Eradicating slavery and human trafficking in supply chains

- (1) The Secretary of State must by regulations make such provision as the Secretary of State thinks appropriate with a view to eradicating the use in the health service in England of goods or services that are tainted by slavery and human trafficking.
- (2) The regulations may, in particular, include—

- (a) provision in connection with the processes to be followed by public bodies in the procurement of goods or services for the purposes of the health service in England (including provision as to circumstances in which a supplier is excluded from consideration for the award of a contract);
- (b) provision as to steps that must be taken by public bodies for assessing and addressing the risk of slavery and human trafficking taking place in relation to people involved in health service supply chains;
- (c) provision as to matters for which provision must be made in contracts for goods or services entered into by public bodies for the purposes of the health service in England.

(3) In this section—

“health service supply chains” means supply chains for providing goods or services for the purposes of the health service in England;

“public body” means a body exercising functions of a public nature;

“slavery and human trafficking” has the meaning given by section 54(12) of the Modern Slavery Act 2015;

“tainted”: goods or services are “tainted” by slavery and human trafficking if slavery and human trafficking takes place in relation to anyone involved in the supply chain for providing those goods or services.”

- (3) In section 272 (orders, regulations, rules and directions), in subsection (6), after paragraph (zze) (inserted by section 80), insert—
- “(zzf) regulations under section 12ZC,”.

Competition

82 Duty to provide assistance to the CMA

- (1) After section 13SB of the National Health Service Act 2006 (inserted by section 34(2) of this Act) insert—

“13SC Provision of regulatory information or assistance to the CMA

- (1) NHS England must give the Competition and Markets Authority (“the CMA”) —

- (a) any regulatory information that the CMA may require to enable the CMA to exercise its relevant functions,
- (b) any other regulatory information it considers would assist the CMA in exercising its relevant functions, and
- (c) any other assistance the CMA may require to assist the CMA in exercising its relevant functions.

(2) In this section—

“regulatory information” means information held by NHS England in connection with—

- (a) its regulatory functions falling within section 13SB(2)(a) or (b),
- or

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

(b) its functions under—

- (i) sections 6F and Schedule 1ZA (patient choice: enforcement);
- (ii) sections 27A and 27C (NHS trusts: oversight and support and recommendations about restructuring);

“relevant functions”, in relation to the CMA, means its functions under the Competition Act 1998 and the Enterprise Act 2002 so far as those functions are exercisable on behalf of the CMA by the CMA Board or a CMA group (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013).”

- (2) In the Health and Social Care Act 2012, omit section 80 (co-operation between monitor and CMA).

83 Mergers of providers: removal of CMA powers

- (1) After section 72 of the National Health Service Act 2006 insert—

“NHS trusts and foundation trusts: exemption from merger legislation

72A Exemption from Part 3 of the Enterprise Act 2002

- (1) For the purposes of Part 3 of the Enterprise Act 2002 (mergers), a relevant merger situation is not to be treated as having been created where two or more relevant NHS enterprises cease to be distinct enterprises.
- (2) But subsection (1) does not apply to a case where two or more relevant NHS enterprises and one or more enterprises that are not relevant NHS enterprises cease to be distinct enterprises.
- (3) In this section “relevant NHS enterprise” means the activities, or part of the activities, of—
 - (a) an NHS trust established under section 25;
 - (b) an NHS foundation trust.”
- (2) Omit section 79 of the Health and Social Care Act 2012 (competition: mergers involving NHS foundation trusts).

84 Removal of functions relating to competition etc

- (1) Omit sections 72 and 73 of the Health and Social Care Act 2012 (Monitor and CMA: concurrent functions).
- (2) Schedule 12 contains consequential amendments.

85 Removal of CMA’s involvement in licensing etc

- (1) The Health and Social Care Act 2012 is amended as follows.
- (2) In section 95 (licensing: special conditions), in subsection (1)—
 - (a) in paragraph (a), omit “with the consent of the applicant.”;
 - (b) in paragraph (b), omit “with the consent of the licence holder.”.

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

- (3) In section 100 (modification of standard conditions)—
 - (a) omit subsections (6) to (9);
 - (b) in subsection (11) omit “and section 101”.
- (4) Omit section 101 (modification references to the CMA).
- (5) In section 103 (standard condition as to transparency of certain criteria), in subsection (3)—
 - (a) in paragraph (a), for “the powers conferred on Monitor by sections 100, 101(7) and paragraph 7(2) of Schedule 10” substitute “the power conferred on NHS England by section 100”;
 - (b) omit paragraph (b) but not the “and” at the end.
- (6) In section 141 (levy on providers: consultation), in subsection (8), omit “and section 142”.
- (7) Omit section 142 (levy on providers: responses to consultation).
- (8) In section 304 (regulations, orders and directions), in subsection (5), omit paragraphs (d) and (j).
- (9) Omit Schedule 10 (references by Monitor to the CMA).

Miscellaneous

86 Special Health Authorities: removal of 3 year limit

- (1) In the National Health Service Act 2006—
 - (a) omit section 28A (three year limit for special health authorities);
 - (b) in section 272(6), omit paragraph (zc).
- (2) In the NHS Counter Fraud (Establishment, Constitution, and Staff and Other Transfer Provisions) Order 2017 ([S.I. 2017/958](#))—
 - (a) in article 2, omit the definition of “the abolition date”;
 - (b) omit Part 4 (including Schedule 3) (abolition of the authority).
- (3) In consequence of subsection (1), in the Health and Social Care Act 2012, omit section 48.

87 Tidying up etc provisions about accounts of certain NHS bodies

- (1) After section 29 of the National Health Service Act 2006 insert—

“29A Special Health Authorities: accounts and audit

- (1) In this section a reference to a Special Health Authority is to a Special Health Authority which—
 - (a) performs functions only or mainly in respect of England, or
 - (b) neither performs functions only or mainly in respect of England, nor performs functions only or mainly in respect of Wales.

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

- (2) A Special Health Authority must keep proper accounts and proper records in relation to the accounts.
 - (3) The Secretary of State may give a Special Health Authority directions as to the form in which its accounts must be kept.
 - (4) A Special Health Authority must prepare, in respect of each financial year, annual accounts in such form as the Secretary of State may direct.
 - (5) A Special Health Authority must send copies of any annual accounts prepared by it under subsection (4)—
 - (a) to the Secretary of State, by such date as the Secretary of State may direct, and
 - (b) to the Comptroller and Auditor General, as soon as is reasonably practicable following the end of the financial year in question.
 - (6) The Comptroller and Auditor General must examine, certify and report on the annual accounts.
 - (7) The Special Health Authority must lay before Parliament—
 - (a) a copy of the annual accounts, and
 - (b) the Comptroller and Auditor General’s report on them.
 - (8) Nothing in subsection (2) requires any annual accounts prepared by a Special Health Authority to include matters relating to a charitable trust of which it is a trustee.
 - (9) Nothing in subsection (4) has effect in relation to accounts relating to a charitable trust of which the Special Health Authority is a trustee.”
- (2) In Schedule 4 to that Act (NHS trusts), after paragraph 11 insert—

“Accounts and audit

- 11A (1) An NHS trust must keep proper accounts and proper records in relation to the accounts.
- (2) The Secretary of State may give an NHS trust directions as to the form in which its accounts must be kept.
 - (3) An NHS trust must prepare, in respect of each financial year, annual accounts in such form as the Secretary of State may direct.
 - (4) For the audit of the annual accounts, see the Local Audit and Accountability Act 2014 (and, in particular, section 4 of that Act).
 - (5) The Comptroller and Auditor General may examine—
 - (a) the annual accounts and any records relating to them, and
 - (b) any report on them by the auditor or auditors.
 - (6) An NHS trust must send a copy of its audited annual accounts to NHS England by such date as NHS England may direct.
 - (7) Nothing in sub-paragraph (1) has effect in relation to accounts relating to a charitable trust of which an NHS trust is a trustee.

(8) Nothing in sub-paragraph (3) requires any accounts prepared by an NHS trust to include matters relating to a charitable trust of which it is a trustee.”

(3) In consequence of subsections (1) and (2)—

- (a) in section 6(3)(b) of the National Audit Act 1983, omit “Schedule 15 to the National Health Service Act 2006 or”;
- (b) in the National Health Service Act 2006, omit—
 - (i) section 232 and the italic heading before it;
 - (ii) section 277(3)(n);
 - (iii) Schedule 15;
- (c) in section 57(2A) of the Local Electoral Administration and Registration Services (Scotland) Act 2006, omit “(apart from in Schedule 15)”.

88 Meaning of “health” in NHS Act 2006

In section 275(1) of the National Health Service Act 2006 (interpretation), at the appropriate place insert—

““health” includes mental health;”.

89 Repeal of spent powers to make transfer schemes etc

(1) In the Health and Social Care Act 2012, omit—

- (a) sections 300 and 301;
- (b) section 308(3)(i);
- (c) Schedules 22 and 23.

(2) For section 302 of that Act substitute—

“302 Transfer schemes in respect of previously transferred property

- (1) This section applies in relation to any property, rights or liabilities transferred under a property transfer scheme made under section 300(1) (before its repeal) from a Primary Care Trust, a Strategic Health Authority or the Secretary of State to a Special Health Authority or a qualifying company.
- (2) The Secretary of State may make a scheme for the transfer of any such property, rights or liabilities from the Special Health Authority or qualifying company to any of the following—
 - (a) a Minister of the Crown;
 - (b) NHS England;
 - (c) an integrated care board;
 - (d) an NHS trust;
 - (e) an NHS foundation trust;
 - (f) a qualifying company.
- (3) The things that may be transferred under a scheme under this section include—
 - (a) property, rights and liabilities that could not otherwise be transferred;

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- (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities, except where transfer is to a Minister of the Crown.
- (4) A transfer scheme under this section may make supplementary, incidental, transitional and consequential provision and may in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee.
- (5) A transfer scheme under this section may make provision for the shared ownership or use of property.
- (6) A transfer scheme under this section may provide—
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect.
- (7) In this section references to the transfer of property include references to the grant of a lease.
- (8) In this section “qualifying company” means—
- (a) a company which is formed under section 223 of the National Health Service Act 2006 and wholly or partly owned by the Secretary of State or NHS England, or
 - (b) a subsidiary of a company which is formed under that section and wholly owned by the Secretary of State.”
- (3) In Schedule 1 to the Public Records Act 1958 (bodies the records of which are public records), in Part 1 of the Table at the end of paragraph 3, omit “or section 300 of the Health and Social Care Act 2012”.

90 Abolition of Local Education and Training Boards

- (1) The committees of Health Education England called Local Education and Training Boards are abolished.
- (2) In consequence, the Care Act 2014 is amended as follows.
- (3) In section 100 (objectives, priorities and outcomes), in subsection (4)—
- (a) after paragraph (a), insert “and”;
 - (b) omit paragraph (c) and the “and” before it.
- (4) Omit sections 103 to 107 and the italic heading before them (local functions).

(5) In section 108 (tariffs), in subsection (9), omit “an LETB or”.

(6) In section 119 (interpretation and supplementary provision), in the table in subsection (1), omit the entries relating to the following—

“appointment criteria”;

“commissioner of health services”;

“LETB”.

(7) In Schedule 5 (Health Education England)—

- (a) in paragraph 9, in sub-paragraph (3), omit “(including a committee which HEE is required to appoint under section 103(1) (LETBs))”;
- (b) in paragraph 13—
 - (i) in sub-paragraph (2), omit “(but see sub-paragraph (5))”;
 - (ii) omit sub-paragraph (5);
- (c) in paragraph 26, in sub-paragraph (2)—
 - (i) omit paragraph (a);
 - (ii) in paragraph (b), omit “other”;
- (d) in paragraph 27, in sub-paragraph (2)—
 - (i) omit paragraph (a) and the “and” at the end;
 - (ii) in paragraph (b), omit “other”.

(8) Omit Schedule 6 (local education and training boards).

91 Hospital patients with care and support needs: repeals etc

(1) In the Care Act 2014—

- (a) for section 74 substitute—

“74 Discharge of hospital patients with care and support needs

- (1) Where a relevant trust is responsible for an adult hospital patient and considers that the patient is likely to require care and support following discharge from hospital, the relevant trust must, as soon as is feasible after it begins making any plans relating to the discharge, take any steps that it considers appropriate to involve—
 - (a) the patient, and
 - (b) any carer of the patient.
- (2) In performing the duty under subsection (1), a relevant trust must have regard to any guidance issued by NHS England.
- (3) For the purposes of this section, a relevant trust is responsible for a hospital patient if the relevant trust manages the hospital.
- (4) In this section—
 - “adult” means a person aged 18 or over;

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“carer” means an individual who provides or intends to provide care for an adult, otherwise than by virtue of a contract or as voluntary work;

“relevant trust” means—

- (a) an NHS trust established under section 25 of the National Health Service Act 2006, or
 - (b) an NHS foundation trust.”;
- (b) omit Schedule 3 (assessment notices etc in relation to the discharge of hospital patients with care and support needs).

(2) The Community Care (Delayed Discharges etc) Act 2003 is repealed.

(3) In consequence of subsection (1)—

- (a) in section 14 of the Coronavirus Act 2020, omit subsection (8);
- (b) the Care and Support (Discharge of Hospital Patients) Regulations 2014 ([S.I. 2014/2823](#)) are revoked.

(4) In consequence of subsection (2)—

- (a) in Schedule 1 to the Local Authority Social Services Act 1970, omit the entry relating to the Community Care (Delayed Discharges etc) Act 2003;
- (b) in the Children Act 1989—
 - (i) in section 17ZA(6)(b), omit sub-paragraph (iii);
 - (ii) in section 17ZD(8)(b), omit sub-paragraph (iii);
- (c) in Schedule 2 to the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), in Table 1—
 - (i) in the English language text, omit the entry relating to the Community Care (Delayed Discharges etc) Act 2003;
 - (ii) in the Welsh language text, omit the entry relating to Deddf Gofal Cymunedol (Rhyddhau Gohiriedig etc) 2003.