

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 4 – Pricing

Section 124 - Local modifications of prices of services: agreements

906. This section specifies the process for a provider of a health care service for the purposes of the NHS and the relevant commissioner to agree a modification of prices payable in accordance with the national tariff (*subsection (1)*). This may be necessary where an efficient provider cannot recover their costs at the prices determined in accordance with the tariff, for example, due to the services required by commissioners being of relatively small scale such as may be the case where a provider is required to sustain provision of Accident and Emergency or maternity services in a relatively less populated area of the country. Monitor may approve any such modification if, applying the methodology agreed with the NHS Commissioning Board and published in the national tariff under subsection 116(1)(d), it is satisfied that it would be uneconomic for the provider to provide the service (*subsection (5)*). Monitor can require evidence in support of an application for a modification (*subsection (4)*).
907. Where Monitor approves an application, it must notify the Secretary of State and those CCGs, providers and others whom it considers appropriate, as well as publishing details of the modification and the date on which it takes effect (*subsections (6) to (8)*).
908. The Secretary of State may direct that an agreement is to be of no effect, if the Secretary of State thinks that the agreement might breach EU obligations (for instance, state aid rules) (*subsection (9)*).