

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 126 – Applications under section 125: notification of commissioners

911. This section provides for action to be taken by Monitor where it has identified significant risk to the continuity of NHS services as part of its consideration of an application for modification of the prices payable under the national tariff (*subsections (1)*). It obliges Monitor to notify the NHS Commissioning Board and certain CCGs where it has identified such risks and is satisfied that this was attributable to the way in which services were configured.
912. *Subsection (3)* requires Monitor to notify the NHS Commissioning Board and such CCGs as Monitor considers appropriate where:
- a) a provider of NHS health care services applies to Monitor for a modification to the tariff price, under section 126 (where the provider has previously been unable to agree a modification with the commissioner of the health care services in question), and
 - b) Monitor is satisfied that an unsustainable configuration of certain health care services is putting services subject to a licence condition under section 97(1)(i), (j) or (k) (for the purpose of ensuring the continuity of those services) at significant risk.
913. *Subsection (4)* requires Monitor to publish an annual list of the notifications it has sent to commissioners regarding unsustainable service configurations and a summary of its reasoning in each case.
914. *Subsection (5)* requires the Board and CCGs to have regard to any such notification received when arranging for the continued provision of NHS health care services. It would be for commissioners to decide what action to take to address any unsustainable configuration of services, in consultation with Local Health and Well-being Boards.