

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 116 - The national tariff

867. This section requires Monitor to publish “the national tariff”, a document that makes provision about pricing of health care services for the purposes of the NHS. *Subsection (1)* provides that the national tariff must:
- specify the health care services to which it applies. The tariff would include ‘currencies’ (i.e. the service specification which may include one or more component health care services) that would be used as the basis for pricing and payments;
 - specify the methodology (or methodologies) that had been employed by Monitor for determining the prices payable under the national tariff (which may be different for different descriptions of services). The methodology would include the input data as well as the process of calculation for determining the prices payable under the national tariff;
 - specify the prices payable for those services, subject to any adjustments that may be provided for under this Chapter;
 - specify a methodology to be used by Monitor when considering agreements under section 124 or applications under section 125 for the local modification of prices payable under the national tariff.
868. *Subsections (2), (4)(b), (4)(c) and (6)* make provision for rules which may be included in the national tariff providing for:
- providers and commissioners to agree to vary the prices payable under the national tariff or the specification of a health care service specified in the national tariff (*subsection (2)*). The intent is to enable flexibility to be provided within the national tariff, for example, to support innovation in service delivery, integration of services, or unbundling of services to enable components of care to be delivered and paid for separately, where this would be in patients’ best interests. Where such variations are agreed, the commissioner is required by *subsection (3)* to keep and publish a written statement of all such variations;
 - determining prices payable for services not specified in the national tariff, (local price setting rules) where the prices payable would otherwise, in the absence of such rules, be agreed locally between commissioners and providers (*subsection (4)(b)*);

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

- the determination of which ‘currency’ (see paragraph 832 above) applies where a service is specified in more than one way under the national tariff, or under any local price setting rules (*subsection (6)*); and
 - governing the making of payments to the provider (*subsection (4)(c)*).
869. *Subsection (5)* provides that local price setting rules under subsection (4)(b) may also include the specification of currencies for health care services which are not specified under subsection (1)(a). This provision would allow standard currencies to be specified at a national level, where the prices are to be determined locally. This would support expansion in the range of services covered by the national tariff over time, where this would be in patients’ best interests.
870. Subsection (4)(a) provides that the national tariff may also specify variations to the national prices for a service based on the circumstances in which that service is provided or any other factors relevant to providing that service, for example, to take account of whether the service is provided in a hospital setting or in a patient’s home, or to take account of clinical complexity.
871. *Subsection (7)* provides that the national tariff may include guidance on: the application of any rules included in the national tariff (except rules on making payments to providers); the discharge of the duty under subsection (3) to publish variations agreed between the provider and commissioner under any such rules; and, the application of variations in the national tariff made in accordance with subsection (4) (a). Commissioners must have regard to any guidance provided.
872. *Subsection (8)* provides that the national tariff may specify different prices payable, or variations of the prices payable, for a specified health care service (or services of a specified description) to different types of provider. However, the different prices payable, or variations of the prices payable, could not be based on whether the provider is in the public or private sector or any other aspect of the status of the provider (*subsection (10)*). For example, a differential price could be specified for providers in central London due to the additional costs of land and buildings but the prices payable cannot be based on whether the provider is public or private sector. Prices specified in the national tariff would not be able to include prices for public health services.
873. *Subsection (12)* provides that the national tariff has effect for the period specified in the tariff or until a new edition of the tariff takes effect.
874. *Subsection (13)* requires Monitor to have regard to the mandate set by the Secretary of State (published under section 13A (mandate to the Board) of the NHS Act) when carrying out its pricing functions under this Chapter.