



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 8

#### THE NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELLENCE

##### *Functions: other*

#### 242 NICE's charter

- (1) Regulations may make provision requiring NICE to publish a document explaining the functions of NICE and how NICE intends to exercise them (referred to in this section as “the charter”).
- (2) The regulations may, in particular, make provision about—
  - (a) the information to be provided in the charter,
  - (b) the timing of preparation of the charter,
  - (c) review and revision by NICE of the charter, and
  - (d) the manner in which the charter must or may be published.

#### Commencement Information

- I1** S. 242 partly in force; s. 242 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I2** S. 242 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### 243 Additional functions

- (1) NICE may do any of the following—
  - (a) acquire, produce, manufacture and supply goods,
  - (b) acquire land by agreement and manage and deal with land,
  - (c) supply accommodation to any person,
  - (d) supply services to any person and provide new services,

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*Changes to legislation: Health and Social Care Act 2012, Cross Heading: Functions: other is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (e) provide instruction for any person, and
  - (f) develop and exploit ideas and exploit intellectual property.
- (2) But NICE may exercise a power under subsection (1) only—
- (a) if doing so is connected with the provision of health care or social care, and
  - (b) to the extent that its exercise does not to any significant extent interfere with the performance by NICE of any function it has under or by virtue of any other provision of this Part.
- (3) NICE may—
- (a) charge for anything it does in the exercise of a power under subsection (1), and
  - (b) calculate any such charge on the basis that it considers to be the appropriate commercial basis.

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**Commencement Information**

**I3** S. 243 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

**244 Arrangements with other bodies**

- (1) NICE may arrange with any person or body to provide, or assist in providing, any service which NICE is required or authorised to provide by virtue of this Part.
- (2) The power under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to NICE.

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**Commencement Information**

**I4** S. 244 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

**245 Failure by NICE to discharge any of its functions**

- (1) The Secretary of State may give a direction to NICE if the Secretary of State considers that—
  - (a) NICE—
    - (i) is failing or has failed to discharge any of its functions, or
    - (ii) is failing or has failed properly to discharge any of its functions, and
  - (b) the failure is significant.
- (2) A direction under subsection (1) may direct NICE to discharge such of those functions, and in such manner and within such period or periods, as may be specified in the direction.
- (3) If NICE fails to comply with a direction under subsection (1), the Secretary of State may—
  - (a) discharge the functions to which it relates, or
  - (b) make arrangements for any other person to discharge them on the Secretary of State's behalf.
- (4) Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State must publish reasons for doing so.

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- (5) For the purposes of this section, 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 in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred.

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**Commencement Information**

- I5** S. 245 partly in force; s. 245 in force for specified purposes at Royal Assent, see s. 306(1)(d)  
**I6** S. 245 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

**246 Protection from personal liability**

- (1) Section 265 of the Public Health Act 1875 (which relates to the protection of members and officers of certain authorities from personal liability) has effect as if there were included in the authorities referred to in that section a reference to NICE.
- (2) In its application to NICE as provided for by subsection (1), section 265 of that Act has effect as if any reference in that section to the Public Health Act 1875 were a reference to this Act.

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**Commencement Information**

- I7** S. 246 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)