

**Changes to legislation:** Health and Social Care Act 2012, PART 1 is up to date with all changes known to be in force on or before 19 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

## SCHEDULES

### SCHEDULE 4

#### AMENDMENTS OF THE NATIONAL HEALTH SERVICE ACT 2006

##### PART 1

###### THE HEALTH SERVICE IN ENGLAND

- 1 (1) For section 2 substitute—

###### “2 General power

The Secretary of State, the Board or a clinical commissioning group may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any function conferred on that person by this Act.”

- (2) For the cross-heading preceding section 2 substitute “General power”.

###### Commencement Information

- I1** Sch. 4 para. 1 in force at 1.10.2012 for specified purposes by [S.I. 2012/1831](#), **art. 2(2)** (with [art. 10](#)) (as amended (22.10.2012) by [S.I. 2012/2657](#), [art. 15](#))
- I2** Sch. 4 para. 1 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](#))

- 2 (1) Section 6 (performance of functions outside England) is amended as follows.

- (2) For subsection (1) substitute—

“(1) Where the Secretary of State has a duty or power to provide anything under section 2A or 2B or Schedule 1, that thing may be provided outside England.”

- (3) After subsection (1) insert—

“(1A) Where a clinical commissioning group or the Board has a duty or power to arrange for the provision of anything under section 3, 3A, 3B or 4 or Schedule 1, it may arrange for that thing to be provided outside England.”

- (4) In subsection (2) for “The Secretary of State's functions” substitute “The functions of the Secretary of State, the Board and clinical commissioning groups”.

###### Commencement Information

- I3** Sch. 4 para. 2(1) in force at 1.2.2013 for specified purposes by [S.I. 2012/2657](#), **art. 2(4)**
- I4** Sch. 4 para. 2(1) 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](#))

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- I5** Sch. 4 para. 2(2)(4) in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))  
**I6** Sch. 4 para. 2(3) in force at 1.2.2013 by [S.I. 2012/2657](#), **art. 2(4)**

- 3 (1) Section 6A (reimbursement of cost of services provided in another EEA state) is amended as follows.
- (2) In subsection (3)(b) after “Secretary of State” insert “, the Board”.
- (3) In subsection (7) after “Secretary of State” insert “, the Board”.
- (4) In subsection (8) in each of paragraphs (a) and (b)—
- (a) after “Secretary of State” insert “, the Board”, and
  - (b) for “either of them” substitute “any of them”.
- (5) In subsection (9), after “Secretary of State” (in the second place it occurs) insert “, the Board”.
- (6) In subsection (11), in the definition of “responsible authority”—
- (a) omit “Strategic Health Authority or”,
  - (b) omit “Primary Care Trust”,
  - (c) before “responsible under” insert “a local authority or clinical commissioning group”, and
  - (d) for “securing” substitute “arranging for”.

**Commencement Information**

- I7** Sch. 4 para. 3 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

- 4 (1) Section 6B (prior authorisation for the purposes of section 6A) is amended as follows.
- (2) In subsection (2)(b) after “Secretary of State” insert “, the Board”.
- (3) In subsection (5), in each of paragraphs (b) and (c) after “the Secretary of State” insert “, the Board”.

**Commencement Information**

- I8** Sch. 4 para. 4 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

- 5 (1) In section 8 (Secretary of State's directions to health service bodies), in subsection (2)
- (a) omit paragraph (a), and
  - (b) omit paragraph (b).
- (2) In the heading to that section after “to” insert “certain”.
- (3) Before section 8 insert the following cross-heading “Directions to certain NHS bodies”.

**Commencement Information**

- I9** Sch. 4 para. 5 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

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6 (1) Section 9 (NHS contracts) is amended as follows.

(2) In subsection (4)—

- (a) before paragraph (a) insert—
  - “(za) the Board,
  - (zb) a clinical commissioning group,”
- (b) omit paragraph (a), and
- (c) omit paragraph (b).

#### Commencement Information

- I10** Sch. 4 para. 6(1)(2)(b)(2)(c) in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))
- I11** Sch. 4 para. 6(2)(a) in force at 1.10.2012 by [S.I. 2012/1831](#), **art. 2(2)**

7 In section 11 (arrangements to be treated as NHS contracts), in subsection (1)—

- (a) after “under which” insert “the Board,”,
- (b) omit “a Strategic Health Authority,” and
- (c) omit “a Primary Care Trust”.

#### Commencement Information

- I12** Sch. 4 para. 7(a) in force at 1.10.2012 by [S.I. 2012/1831](#), **art. 2(2)**
- I13** Sch. 4 para. 7(b)(c) in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

8 (1) Section 12 (arrangements with other bodies) is amended as follows.

(2) In subsection (1) for “any service under this Act” substitute “anything which the Secretary of State has a duty or power to provide, or arrange for the provision of, under section 2A or 2B or Schedule 1”.

(3) For subsection (2) substitute—

- “(2) The bodies with whom arrangements may be made under subsection (1) include—
- (a) the Board,
  - (b) clinical commissioning groups,
  - (c) any other public authorities, and
  - (d) voluntary organisations.”

(4) For subsection (3) substitute—

- “(3) The Secretary of State may make available any facilities provided by the Secretary of State under section 2A or 2B or Schedule 1 to any service provider or to any eligible voluntary organisation.

(3A) In subsection (3)—

“eligible voluntary organisation” means a voluntary organisation eligible for assistance under section 64 or section 65 of the Health Services and Public Health Act 1968;

“service provider” means a person or body with whom the Secretary of State has made an arrangement under subsection (1).”

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(5) In subsection (4)—

- (a) after paragraph (a) insert—
  - “(aa) the Board,
  - (ab) a clinical commissioning group,
  - (ac) a local authority,”
- (b) omit paragraph (b), and
- (c) omit paragraph (c).

(6) After subsection (4) insert—

“(4A) In subsection (4), “local authority” has the same meaning as in section 2B.”

(7) For the cross-heading preceding section 12 substitute “Arrangements with other bodies”.

**Commencement Information**

**I14** Sch. 4 para. 8 in force at 1.4.2013 by [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

9

After section 12 insert—

**“12ZA Commissioning arrangements by the Board or clinical commissioning groups**

- (1) This section applies in relation to arrangements made by the Board or a clinical commissioning group in the exercise of functions under section 3, 3A, 3B or 4 or Schedule 1.
- (2) The arrangements may be made with any person or body (including public authorities and voluntary organisations).
- (3) If the Board or a clinical commissioning group arranges for the provision of facilities by a service provider, it may also make arrangements for those facilities to be made available to another service provider or to an eligible voluntary organisation.
- (4) The Board or a clinical commissioning group may make available any of its facilities to—
  - (a) a service provider, or
  - (b) an eligible voluntary organisation.
- (5) Where facilities are made available under subsection (4) any of the following persons may make available the services of any employee of that person who is employed in connection with the facilities—
  - (a) the Secretary of State,
  - (b) the Board,
  - (c) a clinical commissioning group,
  - (d) a Special Health Authority, or
  - (e) a Local Health Board.
- (6) Goods or materials may be made available under this section either temporarily or permanently.

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- (7) Any power to supply goods or materials under this section includes—
- (a) a power to purchase or store them, and
  - (b) a power to arrange with third parties for the supply of goods or materials by those third parties.
- (8) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments.
- (9) In this section—
- “eligible voluntary organisation” means a voluntary organisation eligible for assistance under section 64 or section 65 of the Health Services and Public Health Act 1968;
- “service provider” means a person or body with whom the Board or a clinical commissioning group has made arrangements in the exercise of the functions mentioned in subsection (1).”

#### Commencement Information

- I15** Sch. 4 para. 9 in force at 1.2.2013 for specified purposes by [S.I. 2012/2657](#), [art. 2\(4\)](#)
- I16** Sch. 4 para. 9 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](#))

- 10 (1) Section 12A (direct payments for health care) is amended as follows.
- (2) In subsection (1) after “The Secretary of State” insert “, the Board, a clinical commissioning group or a local authority”.
- (3) In subsection (2)—
- (a) for paragraph (a) substitute—

“(a) anything that the Secretary of State or a local authority has a duty or power to provide or arrange under section 2A or 2B or Schedule 1;”
  - (b) after that paragraph insert—

“(aa) anything that the Board or a clinical commissioning group may or must arrange for the provision of under this Act or any other enactment.”, and
  - (c) omit paragraphs (b) and (c).
- (4) In subsection (4)—
- (a) for “a Primary Care Trust” substitute “a clinical commissioning group”,
  - (b) for “the trust” substitute “the group”, and
  - (c) at the end insert “; and the references in this subsection to a clinical commissioning group are, so far as necessary for the purposes of regulations under subsection (2E) of that section, to be read as references to the Board.”
- (5) In subsection (5), omit “or under regulations under subsection (4)”.
- (6) After subsection (6) insert—
- “(7) In this section and sections 12B to 12D, “local authority” has the same meaning as in section 2B.”

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**I17** Sch. 4 para. 10 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

- 11 (1) Section 12B (regulations about direct payments) is amended as follows.
- (2) In subsection (2), in each of paragraphs (d), (g), (h) and (j), for “or the Primary Care Trust” substitute “, the Board, a clinical commissioning group or a local authority”.
- (3) In subsection (4) —
- (a) for “or the Primary Care Trust”, in the first place it occurs, substitute “, the Board, a clinical commissioning group or a local authority”, and
- (b) for “or the Primary Care Trust”, in the second place it occurs, substitute “the Board, a clinical commissioning group or a local authority (as the case may be)”.
- (4) In subsection (5)—
- (a) in paragraph (a), after “the Secretary of State” insert “or a local authority or as arranged for by the Board or a clinical commissioning group (as the case may be)”, and
- (b) in paragraph (b) for “a Primary Care Trust with respect to the provision of” substitute “the Board, a clinical commissioning group or a local authority with respect to the arrangement for the provision of”.

**Commencement Information**

**I18** Sch. 4 para. 11 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

- 12 In section 12D (arrangements with other bodies relating to direct payments)—
- (a) in subsection (1) after “the Secretary of State” insert “, the Board, a clinical commissioning group or a local authority”, and
- (b) in subsection (3) after “the Secretary of State” insert “, the Board, a clinical commissioning group or a local authority”.

**Commencement Information**

**I19** Sch. 4 para. 12 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

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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\(5\)](#)