



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

#### REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

### CHAPTER 3

#### LICENSING

#### *Licence conditions*

#### **102 Modification of conditions by order under other enactments**

- (1) This section applies where the [<sup>F1</sup>CMA] or Secretary of State (the “relevant authority”) makes a relevant order.
- (2) A relevant order may modify—
  - (a) the conditions of a particular licence, or
  - (b) the standard conditions applicable to all licences under this Chapter or to licences of a particular description.
- (3) The modifications which may be made by a relevant order are those which the relevant authority considers necessary or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (4) In this section “relevant order” means—
  - (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where one or more of the enterprises which have, or may have, ceased to be distinct enterprises were engaged in the provision of health care services for the purposes of the NHS;
  - (b) an order under any of those provisions of that Act where one or more of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of health care services for the purposes of the NHS;

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*Changes to legislation: Health and Social Care Act 2012, Section 102 is up to date with all changes known to be in force on or before 21 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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- (c) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market [<sup>F2</sup>or markets] in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to—
- (i) the commissioning by [<sup>F3</sup>NHS England] or [<sup>F4</sup>an integrated care board] of health care services for the purposes of the NHS, or
  - (ii) the provision of those services.
- (5) The modification under subsection (2)(a) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Chapter.
- (6) Where the relevant authority modifies the standard conditions applicable to all licences or (as the case may be) to licences of a particular description under this section, the relevant authority—
- (a) may, after consultation with [<sup>F5</sup>NHS England], make such incidental or consequential modifications as the relevant authority considers necessary or expedient of any other conditions of any licence which is affected by the modifications,
  - (b) must also make (as nearly as may be) the same modifications of those conditions for the purposes of their inclusion in all licences or (as the case may be) licences of that description granted after that time, and
  - (c) must publish any modifications it makes under paragraph (b).
- (7) Expressions used in subsection (4) and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meaning in that subsection as in that Part.
- (8) In this section, a reference to modifying a condition includes a reference to amending, omitting or adding a condition.

#### Textual Amendments

- F1** Word in s. 102(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 129](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 102(4)(c) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 194](#) (with art. 3)
- F3** Words in s. 102 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); S.I. 2022/734, [reg. 2\(a\)](#), Sch. (with regs. 13, 29, 30)
- F4** Words in s. 102(4)(c)(i) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 179](#); S.I. 2022/734, [reg. 2\(a\)](#), Sch. (with regs. 13, 29, 30)
- F5** Words in s. 102(6)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 65](#); S.I. 2022/734, [reg. 2\(a\)](#), Sch. (with regs. 13, 29, 30)

#### Commencement Information

- I1** S. 102 partly in force; s. 102 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I2** S. 102 in force at 1.4.2013 in so far as not already in force by S.I. 2013/671, [art. 2\(3\)](#)

**Changes to legislation:**

Health and Social Care Act 2012, Section 102 is up to date with all changes known to be in force on or before 21 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.

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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\(5\)](#)