



Health and Social Care Act 2012

2012 CHAPTER 7

PART 8

THE NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELLENCE

Supplementary

249 Consequential and transitional provision

- (1) Schedule 17 (which contains consequential provision) has effect.
- (2) A statement of standards prepared and published by the Institute before commencement is to be treated on and after commencement as if it were a quality standard—
 - (a) prepared and published by NICE in accordance with section 234,
 - (b) endorsed under subsection (5) of that section, and
 - (c) in respect of which the transitional commissioner is the relevant commissioner for the purposes of that section.
- (3) Subsections (4) to (6) apply to a case where before commencement—
 - (a) the Secretary of State has referred a matter to the Institute for the purpose of preparing and publishing a statement of standards, but
 - (b) the Institute has not published the statement.
- (4) The referral by the Secretary of State to the Institute of the matter is to be treated on and after commencement as if it were a direction given to NICE by the transitional commissioner for the preparation of a quality standard in relation to that matter under section 234(1); and the transitional commissioner is to be treated as the relevant commissioner for the purposes of that section.
- (5) Anything done by the Institute before commencement in relation to the matter is to be treated on and after commencement as having been done by NICE in pursuance of the direction.

Changes to legislation: Health and Social Care Act 2012, Section 249 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

- (6) Consultation with any person undertaken by the Institute before commencement in relation to the matter is to be treated on and after commencement as if it were consultation by NICE under section 234(3) in relation to the preparation of the quality standard.
- (7) A procedure established by the Institute before commencement for the preparation of statements of standards is to be treated on and after commencement as if it were a procedure established by NICE in accordance with section 234(7) for the preparation of quality standards.
- (8) For the purposes of this section “the transitional commissioner” is the Secretary of State; but the Secretary of State, after consulting [^{F1}NHS England], may direct that in relation to a particular statement of standards or matter the transitional commissioner is—
- (a) [^{F1}NHS England], or
 - (b) both the Secretary of State and [^{F1}NHS England].

- (9) In this section—

“commencement” means the commencement of section 234;

“the Institute” means the Special Health Authority known as the National Institute for Health and Clinical Excellence;

“statement of standards” means a document containing advice to the Secretary of State in relation to the quality of the provision of health care prepared and published by the Institute pursuant to the directions given to the Institute by the Secretary of State on 27 July 2009.

Textual Amendments

F1 Words in s. 249 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)

Commencement Information

I1 [S. 249](#) partly in force; [s. 249](#) in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)

I2 [S. 249](#) 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)

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\(5\)](#)