



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Functions relating to mental health matters

40 After-care

(1) Section 117 of the Mental Health Act 1983 (after-care) is amended as follows.

(2) In subsection (2)—

- (a) after “duty of the” insert “clinical commissioning group or”,
- (b) omit “Primary Care Trust or” in each place it appears, and
- (c) after “such time as the” insert “clinical commissioning group or”.

(3) After subsection (2C) insert—

“(2D) Subsection (2), in its application to the clinical commissioning group, has effect as if for “to provide” there were substituted “to arrange for the provision of”.

(2E) The Secretary of State may by regulations provide that the duty imposed on the clinical commissioning group by subsection (2) is, in the circumstances or to the extent prescribed by the regulations, to be imposed instead on another clinical commissioning group or the National Health Service Commissioning Board.

(2F) Where regulations under subsection (2E) provide that the duty imposed by subsection (2) is to be imposed on the National Health Service Commissioning Board, subsection (2D) has effect as if the reference to the clinical commissioning group were a reference to the National Health Service Commissioning Board.

Changes to legislation: Health and Social Care Act 2012, Section 40 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

- (2G) Section 272(7) and (8) of the National Health Service Act 2006 applies to the power to make regulations under subsection (2E) as it applies to a power to make regulations under that Act.”
- (4) In subsection (3)—
- (a) after “section “the” insert “clinical commissioning group or”,
 - (b) omit “Primary Care trust or” in each place it appears, and
 - (c) after “means the”, in the first place it appears, insert “clinical commissioning group or”.
- (5) In section 275 of the National Health Service Act 2006 (interpretation) after subsection (4) insert—
- “(5) In each of the following, the reference to section 3 includes a reference to section 117 of the Mental Health Act 1983 (after-care)—
- (a) in section 223K(8), paragraph (a) of the definition of “relevant services”,
 - (b) in section 244(3), paragraph (a)(i) of the definition of “relevant health service provider”,
 - (c) in section 252A(10), the definition of “service arrangements”,
 - (d) section 253(1A)(d)(ii).”
- (6) In section 48 of the Health and Social Care Act 2008 (special reviews and investigations), in subsection (2)(ba), after “the National Health Service Act 2006” insert “or section 117 of the Mental Health Act 1983 (after-care)”.
- (7) In section 97 of that Act (general interpretation of Part 1), in subsection (2A), after “section 7A of that Act)” insert “or section 117 of the Mental Health Act 1983 (after-care)”.
- (8) In consequence of the repeals made by subsections (2)(b) and (4)(b), omit paragraph 47 of Schedule 2 to the National Health Service Reform and Health Care Professions Act 2002.

Commencement Information

- I1** S. 40 partly in force; s. 40 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I2** S. 40 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](#))
- I3** S. 40(1)-(4)(8) in force at 1.2.2013 for specified purposes by [S.I. 2012/2657](#), **art. 2(4)**

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\(5\)](#)