
STATUTORY INSTRUMENTS

2012 No. 2657

**The Health and Social Care Act 2012 (Commencement
No.3, Transitional, Savings and Transitory
Provisions and Amendment) Order 2012**

Commencement of provisions

2.—(1) Insofar as they are not already in force⁽¹⁾, the following provisions of the Act shall come into force in accordance with this Order.

(2) 1st November 2012 is the day appointed for the coming into force of—

section 61(2) and Schedule 8 (Monitor);

section 62 (general duties of Monitor), except subsection (6)(b) and except insofar as it relates to Monitor's functions under Chapter 5 of the 2006 Act;

section 63 (Secretary of State's guidance on Monitor's duty under section 62(9) of the Act);

section 64 (general duties of Monitor: supplementary provision);

section 66 (matters Monitor is to have regard to in exercise of its functions), except insofar as it relates to Monitor's functions under Chapter 5 of the 2006 Act;

section 67 (conflicts between Monitor's functions), except subsection (3);

section 68(1) to (3) (Monitor's duty to review regulatory burdens), except insofar as it relates to Monitor's functions under Chapter 5 of the 2006 Act;

section 70 (information obtained etc. by Monitor);

section 71 (Monitor's failure to perform functions);

section 94(1) to (6) (standard conditions), only insofar as it relates to the preparation of, and consultation on, draft standard conditions under section 94(7), and publication of those conditions under section 94(9);

section 94(7) to (10) and (11)(b) and (c);

section 95 (special conditions), for the purpose only of enabling Monitor to take steps under section 95 to enable it to include a special condition in the licence of an NHS foundation trust from the date upon which section 81(1) (requirement for health service providers to be licensed) comes into force in relation to NHS foundation trusts;

section 96 (limits on Monitor's functions to set or modify licence conditions), only insofar as—

(a) it relates to functions under section 96(1)(a) and (b), and

(b) in the case of section 96(2)(a), only insofar as that paragraph applies for the purpose of regulating the price payable for the provision of healthcare services for the purpose of the NHS in accordance with the national tariff to be published by Monitor under section 116(1) of the Act (the national tariff);

section 97 (conditions: supplementary) only insofar as it relates to—

(1) See section 306(1) of the Act for the provisions which came into force on the day the Act was passed, and S.I. 2012/1319 (C. 47) and 2012/1831 (C. 71) for provisions of the Act which came into force by Order on earlier dates.

- (a) the preparation of, and consultation on, draft standard conditions under section 94(7) of the Act, and publication of those conditions under section 94(9) of the Act, and
 - (b) special conditions under section 95 of the Act;
- section 98(1) and (2) (conditions relating to the continuation of the provision of services etc.), only insofar as it relates to the preparation of, and consultation on, draft standard conditions under section 94(7) of the Act and publication of those conditions under section 94(9) of the Act, and special conditions;
- section 98(4) and (7);
- section 101(1) and (2) (modification references to the Competition Commission), except insofar as it relates to licence holders and the inclusion or modification of a special condition in their licence;
- section 101(5) and (6) only insofar as it relates to references under section 101(2);
- section 101(8);
- section 103(1) and (2) (standard condition as to transparency of certain criteria), only insofar as it relates to the preparation of, and consultation on, draft standard conditions under section 94(7) of the Act, and publication of those conditions under section 94(9) of the Act;
- section 104(1), (2)(a) and (f), (3) and (4)(a) and (d) (power to require documents and information);
- section 108(1) to (4) (guidance as to use of enforcement powers), for the purposes only of enabling Monitor to prepare and consult upon the first draft guidance under that section;
- section 144(3)(b) and (6) (investment principles and reviews);
- section 148 (service of documents), except section 148(6)(a);
- section 149 (electronic communications);
- section 150(1) and (3) (interpretation and transitional provision in relation to Part 3);
- section 156(1) and (2) (annual report and forward plan of NHS foundation trusts);
- section 166 (information);
- sections 173 to 178 (failure provisions in respect of NHS foundation trusts), except section 173(2);
- Schedule 10 (references by Monitor to the Competition Commission);
- in Schedule 13 (minor and consequential amendments related to Part 3 of the Act)—
- (a) paragraph 9, and
 - (b) paragraph 10,
- and paragraph 8 and section 150(5) insofar as they relate to those paragraphs.
- (3) 1st December 2012 is the day appointed for the coming into force of—
- section 222 (the Professional Standards Authority for Health and Social Care);
 - section 226(2)(b) and (5), and section 226(1) insofar as it relates to those provisions (accountability and governance in relation to the Professional Standards Authority for Health and Social Care);
 - sections 228 and 229 (establishment and accreditation of voluntary registers); and
 - section 230(1) to (4) and (6) and Part 3 of Schedule 15 (consequential amendments and savings in relation to the Professional Standards Authority for Health and Social Care).
- (4) 1st February 2013 is the day appointed for the coming into force of—

section 9 (the NHS Commissioning Board), only insofar as it inserts section 1H(3)(a) into the 2006 Act;

section 10 (clinical commissioning groups), only insofar as it inserts section 1I(2) into the 2006 Act, and only insofar as the function conferred by that subsection relates to the provision of services for the purposes of the health service in England on or after 1st April 2013;

section 13(2) to (5) (duties of clinical commissioning groups as to commissioning certain health services) and section 13(1) insofar as it relates to those subsections, only insofar as it relates to the provision of services for the purposes of the health service in England on or after 1st April 2013;

section 13(8);

section 14 (power of clinical commissioning groups to commission certain health services), only insofar as that function relates to the provision of services for the purposes of the health service in England on or after 1st April 2013;

section 15 (power to require Board to commission certain health services);

section 17(10) (provision of vehicles for disabled persons) only insofar as it relates to the provision of services for the purposes of the health service in England on or after 1st April 2013;

section 20 (regulations as to the exercise of functions by the Board or clinical commissioning groups);

section 23 (the NHS Commissioning Board: further provision), only insofar as it inserts sections 13O and 13Q into the 2006 Act;

section 26 (clinical commissioning groups: general duties etc.), only insofar as it inserts sections 14Z2 and 14Z7(1), (6) and (7) into the 2006 Act;

section 40(1) to (4) and (8), only insofar as it relates to the provision of after-care services for the purposes of the health service in England on or after 1st April 2013;

section 78 (guidance);

in Schedule 4 (amendments of the 2006 Act)—

- (a) paragraph 2(3), and paragraph 2(1) insofar as it relates to that provision;
- (b) paragraph 9, only insofar as it relates to commissioning arrangements that are to take effect on or after 1st April 2013,

and section 55(1) insofar as it relates to those paragraphs;

in Schedule 21 (amendments relating to relationships between the health services)—

- (a) paragraph 2(3)(a) to (c), (e) and (h) (amendment of the National Health Service (Scotland) Act 1978), and paragraph 1 insofar as it relates to those provisions,
- (b) paragraph 6 (amendment of the National Health Service Act 2006), and paragraph 5 insofar as it relates to that paragraph,
- (c) paragraph 12 (amendment of the National Health Service (Wales) Act 2006) insofar as it relates to paragraphs 13(c) to (f), 18 to 21, 33 and 38(1)(a) and (b) and (2),
- (d) paragraphs 13(c) to (f),
- (e) paragraphs 18 to 21,
- (f) paragraph 33,
- (g) paragraph 38(1)(a) and (b) and (2),
- (h) paragraph 43(2)(b) (amendment of the Health and Personal Social Services (Northern Ireland) Order 1991), except insofar as it inserts sub-paragraph (gf) into article 8(2) of

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the Health and Personal Social Services (Northern Ireland) Order 1991⁽²⁾, and paragraph 43(1) insofar as it relates to that provision,

- (i) paragraph 43(2)(c) to (e) and (3), and paragraph 43(1) insofar as it relates to that provision,

and section 297 insofar as it relates to those paragraphs.

⁽²⁾ S.I. 1991/194 (N.I. 1).