

LORDS AMENDMENTS TO THE
HEALTH AND SOCIAL CARE BILL

[The page and line references are to HL Bill 92, the bill as first printed for the Lords.]

Clause 1

- 1 Page 2, line 1, after “of” insert “physical and mental”
- 2 Page 2, line 4, at end insert –
- “() The Secretary of State retains ministerial responsibility to Parliament for the provision of the health service in England.”

After Clause 2

- 3 Insert the following new Clause –

“The Secretary of State’s duty as to the NHS Constitution

After section 1A of the National Health Service Act 2006 insert –

“1AA Duty as to the NHS Constitution

- (1) In exercising functions in relation to the health service, the Secretary of State must have regard to the NHS Constitution.
- (2) In this Act, “NHS Constitution” has the same meaning as in Chapter 1 of Part 1 of the Health Act 2009 (see section 1 of that Act).”

Clause 4

- 4 Page 3, line 5, leave out from “must” to end of line 6 and insert “have regard to the desirability of securing, so far as consistent with the interests of the health service –”
- 5 Page 3, line 11, at end insert –
- “() If, in the case of any exercise of functions, the Secretary of State considers that there is a conflict between the matters mentioned in subsection (1) and the discharge by the Secretary of State of the

duties under section 1, the Secretary of State must give priority to the duties under that section.””

Clause 5

6 Page 3, line 16, leave out “have regard to the need to”

After Clause 5

7 Insert the following new Clause –

“The Secretary of State’s duty as to education and training

After section 1D of the National Health Service Act 2006 insert –

“1DA Duty as to education and training

- (1) The Secretary of State must exercise the functions of the Secretary of State under any relevant enactment so as to secure that there is an effective system for the planning and delivery of education and training to persons who are employed, or who are considering becoming employed, in an activity which involves or is connected with the provision of services as part of the health service in England.
- (2) Any arrangements made with a person under this Act for the provision of services as part of that health service must include arrangements for securing that the person co-operates with the Secretary of State in the discharge of the duty under subsection (1) (or, where a Special Health Authority is discharging that duty by virtue of a direction under section 7, with the Special Health Authority).
- (3) In subsection (1), “relevant enactment” means –
 - (a) section 63 of the Health Services and Public Health Act 1968,
 - (b) this Act,
 - (c) the Health and Social Care Act 2008,
 - (d) the Health Act 2009, and
 - (e) the Health and Social Care Act 2012.””

8 Insert the following new Clause –

“Secretary of State’s duty as to reporting on and reviewing treatment of providers

After section 1DA of the National Health Service Act 2006 insert –

“1DB Secretary of State’s duty as to reporting on and reviewing treatment of providers

- (1) The Secretary of State must within one year of the passing of the Health and Social Care Act 2012, lay a report before Parliament on the treatment of NHS health care providers as respects any matter, including taxation, which might affect their ability to provide health care services for the purposes of the NHS or the reward available to them for doing so.

- (2) The report must include recommendations as to how any differences in the treatment of NHS health care providers identified in the report could be addressed.
- (3) The Secretary of State must keep under review the treatment of NHS health care providers as respects any such matter as is mentioned in subsection (1).
- (4) In this section –
 - (a) “NHS health care providers” means persons providing or intending to provide health care services for the purposes of the NHS, and
 - (b) “health care services for the purposes of the NHS” has the same meaning as in Part 3 of the Health and Social Care Act 2012.””

Clause 10

9 Page 6, line 36, at end insert –

“() After subsection (1E) insert –

“(1F) In exercising its functions under this section and section 3A, a clinical commissioning group must act consistently with –

- (a) the discharge by the Secretary of State and the Board of their duty under section 1(1) (duty to promote a comprehensive health service), and
- (b) the objectives and requirements for the time being specified in the mandate published under section 13A.””

10 Page 6, line 41, at end insert –

“() In section 272 of that Act (orders, regulations, rules and directions), in subsection (6) before paragraph (za) insert –

“(zza) regulations under section 3(1D),”.”

Clause 14

11 Page 9, line 24, after “(1)(d)” insert “ –

(i) ”

12 Page 9, line 25, after “authority”” insert “, and

(ii) after “paragraph 7A” insert “and of any other prescribed information relating to the children concerned”, and

(c) in sub-paragraph (2) after “such weighing or measuring” insert “or in relation to information prescribed under sub-paragraph (1)””

Clause 18

13 Page 14, line 24, at end insert –

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

14 Page 14, line 36, at end insert –

“(6) In section 273 of that Act (further provision about orders and directions), in subsection (4)(b) –

- (a) before paragraph (i) insert –
 - “(zi) section 7 about a function of a person other than the Secretary of State,” and
- (b) in paragraph (i) after “a function” insert “of the Secretary of State”.

Clause 20

- 15 Page 16, line 30, at end insert –
 - “() Requirements included in the mandate have effect only if regulations so provide.”
- 16 Page 16, line 42, at end insert –
 - “() Revisions to the mandate which consist of adding, omitting or modifying requirements have effect only if regulations so provide.”
- 17 Page 17, line 36, leave out from “must” to end of line 37 and insert “have regard to the desirability of securing, so far as consistent with the interests of the health service –”
- 18 Page 17, line 42, at end insert –
 - “() If, in the case of any exercise of functions, the Board considers that there is a conflict between the matters mentioned in subsection (1) and the discharge by the Board of its duties under sections 1(1) and 1E(3)(b), the Board must give priority to those duties.”
- 19 Page 18, line 11, leave out from “decisions” to end and insert “which relate to –
 - (a) the prevention or diagnosis of illness in the patients, or
 - (b) their care or treatment.”
- 20 Page 18, line 34, leave out “have regard to the need to”
- 21 Page 18, line 37, at end insert –

“13LA Duty as to promoting education and training

The Board must, in exercising its functions, have regard to the need to promote education and training for the persons mentioned in section 1DA(1) so as to assist the Secretary of State in the discharge of the duty under that section.”

- 22 Page 21, line 22, after “13E” insert “, 13G”
- 23 Page 21, line 38, after “13E” insert “, 13G”
- 24 Page 24, line 5, at end insert –
 - “() For the purposes of this section a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service.”
- 25 Page 24, line 30, leave out “This section has” and insert “Paragraphs (a) to (c) and (h) of subsection (1) have”
- 26 Page 25, line 9, at end insert –
 - “section 13LA,”

Clause 22

- 27 Page 28, line 40, leave out “in writing by” and insert “by order of”
- 28 Page 33, line 44, at end insert “or (b)”
- 29 Page 34, line 2, at end insert “or (b)”
- 30 Page 34, line 16, leave out “function under section 14L(3)(a)” and insert “functions under section 14L(3)(a) and (b)”
- 31 Page 35, line 29, at end insert –

“14NA Registers of interests and management of conflicts of interest

- (1) Each clinical commissioning group must maintain one or more registers of the interests of –
 - (a) the members of the group,
 - (b) the members of its governing body,
 - (c) the members of its committees or sub-committees or of committees or sub-committees of its governing body, and
 - (d) its employees.
- (2) Each clinical commissioning group must publish the registers maintained under subsection (1) or make arrangements to ensure that members of the public have access to the registers on request.
- (3) Each clinical commissioning group must make arrangements to ensure –
 - (a) that a person mentioned in subsection (1) declares any conflict or potential conflict of interest that the person has in relation to a decision to be made in the exercise of the commissioning functions of the group,
 - (b) that any such declaration is made as soon as practicable after the person becomes aware of the conflict or potential conflict and, in any event, within 28 days, and
 - (c) that any such declaration is included in the registers maintained under subsection (1).
- (4) Each clinical commissioning group must make arrangements for managing conflicts and potential conflicts of interest in such a way as to ensure that they do not, and do not appear to, affect the integrity of the group’s decision-making processes.
- (5) The Board must publish guidance for clinical commissioning groups on the discharge of their functions under this section.
- (6) Each clinical commissioning group must have regard to guidance published under subsection (5).
- (7) For the purposes of this section, the commissioning functions of a clinical commissioning group are the functions of the group in arranging for the provision of services as part of the health service.””

Clause 23

- 32 Page 36, line 34, leave out from “decisions” to end of line 35 and insert “which relate to –

- (a) the prevention or diagnosis of illness in the patients, or
- (b) their care or treatment.”

33 Page 36, line 36, leave out “may” and insert “must”

34 Page 37, line 17, leave out “have regard to the need to”

35 Page 37, line 19, at end insert –

“14XA Duty as to promoting education and training

Each clinical commissioning group must, in exercising its functions, have regard to the need to promote education and training for the persons mentioned in section 1DA(1) so as assist the Secretary of State in the discharge of the duty under that section.”

36 Page 41, line 41, after “14Q” insert “, 14S”

37 Page 43, line 47, after “14Q” insert “, 14S”

38 Page 44, line 24, after “14Q,” insert “14S,”

39 Page 45, leave out lines 9 and 10 and insert –

- “() For the purposes of this section –
 - (a) a failure to discharge a function includes a failure to discharge it properly, and
 - (b) a failure to discharge a function properly includes a failure to discharge it consistently with what the Board considers to be the interests of the health service.”

40 Page 47, leave out lines 21 and 22 and insert –

- “() For the purposes of this section –
 - (a) a failure to discharge a function includes a failure to discharge it properly, and
 - (b) a failure to discharge a function properly includes a failure to discharge it consistently with what the Board considers to be the interests of the health service.”

41 Page 48, line 28, leave out “This section has” and insert “Paragraphs (a) to (c) and (h) of subsection (1) have”

42 Page 49, line 10, at end insert –
“section 14XA,”

Clause 27

43 Page 55, line 38, after “6C” insert “(1) or (3)”

44 Page 56, line 27, at end insert –

- “() A local authority must have regard to any guidance given by the Secretary of State in relation to its director of public health, including guidance as to appointment and termination of appointment, terms and conditions and management.”

Clause 28

45 Page 56, line 40, after “6C” insert “(1) or (3)”

46 Page 57, line 4, at end insert –

“() A document published under subsection (1), and guidance given under subsection (3), may include guidance as to the appointment of officers of the local authority to discharge any functions mentioned in subsection (2), and as to their terms and conditions, management and dismissal.”

Clause 29

47 Page 57, line 20, after “6C” insert “(1) or (3)”

Clause 33

48 Page 65, line 43, at end insert –

“() The duty in subsection (3) does not apply in relation to the proposal if the Secretary of State so directs by an instrument in writing.”

49 Page 66, leave out lines 1 to 4

50 Page 66, line 26, at end insert –

“() The duty in subsection (2) does not apply in relation to the proposal if the Secretary of State so directs by an instrument in writing.”

51 Page 66, leave out lines 29 to 32

52 Page 67, line 19, at end insert –

“() The duty in subsection (2) does not apply in relation to the proposal if the Secretary of State so directs by an instrument in writing.”

53 Page 67, leave out lines 22 to 25

Clause 37

54 Leave out Clause 37 and insert the following new Clause –

“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.
- (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.”

Clause 46

55 Page 79, line 39, at end insert –

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

56 Page 80, line 30, at end insert –

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

57 Page 80, line 40, at end insert –

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

58 Page 81, line 33, at end insert –

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

Clause 49

59 Page 83, line 9, at end insert “and its Healthwatch England committee”

Clause 50

60 Page 83, line 23, at end insert –

“() The report must include the Secretary of State’s assessment of the effectiveness of the discharge of the duties under sections 1A and 1B.”

Clause 54

61 Page 85, line 2, at end insert –

“() Any function conferred on the appropriate authority by this section may be performed by either the Secretary of State or the Department of Health, Social Services and Public Safety in Northern Ireland acting alone or both of them acting jointly (and references in this section to the appropriate authority are to be construed accordingly).”

62 Page 85, leave out lines 4 to 6

After Clause 59

63 Insert the following new Clause –

“Secretary of State’s guidance on duty under section 59(9)

- (1) The Secretary of State may, for the purpose of assisting Monitor to comply with its duty under section 59(9), publish guidance on –
 - (a) the objectives specified in the mandate published under section 13A of the National Health Service Act 2006 which the Secretary of State considers to be relevant to Monitor’s exercise of its functions, and
 - (b) the Secretary of State’s reasons for considering those objectives to be relevant to Monitor’s exercise of its functions.
- (2) In exercising its functions, Monitor must have regard to guidance under subsection (1).
- (3) Where the Secretary of State publishes guidance under subsection (1), the Secretary of State must lay a copy of the published guidance before Parliament.
- (4) The Secretary of State –
 - (a) may revise guidance under subsection (1), and
 - (b) if the Secretary of State does so, must publish the guidance as revised and lay it before Parliament.”

Clause 62

- 64** Page 89, leave out line 23 and insert –
“(1) In exercising its functions, Monitor must have regard, in particular, to”
- 65** Page 89, line 24, at end insert –
“(2) Monitor must, in exercising its functions, also have regard to the following matters in so far as they are consistent with the matter referred to in subsection (1) –
- 66** Page 89, line 26, after “services” insert “provided”
- 67** Page 89, line 26, after “NHS” insert “and in the efficiency of their provision”
- 68** Page 89, line 27, leave out paragraph (c)
- 69** Page 89, line 41, leave out paragraph (h)
- 70** Page 90, line 3, at end insert –
“(ja) where the Secretary of State publishes a document for the purposes of section 13E of the National Health Service Act 2006 (improvement of quality of services), any guidance published by the Secretary of State on the parts of that document which the Secretary of State considers to be particularly relevant to Monitor’s exercise of its functions,”
- 71** Page 90, line 4, leave out paragraphs (k) to (m)
- 72** Page 90, line 12, at end insert –
“() Where the Secretary of State publishes guidance referred to in subsection (2)(ja), the Secretary of State must lay a copy of the published guidance before Parliament.
() The Secretary of State –
(a) may revise the guidance, and
(b) if the Secretary of State does so, must publish the guidance as revised and lay it before Parliament.”

Clause 67

- 73** Page 93, line 16, after “Monitor’s” insert “, other than a function it has by virtue of section 68 or 69,”
- 74** Page 93, line 29, leave out subsection (6) and insert –
“() For the purposes of this section –
(a) a failure to perform a function includes a failure to perform it properly, and
(b) a failure to perform a function properly includes a failure to perform it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred; and “the health service” has the same meaning as in the National Health Service Act 2006.”

Clause 74

- 75 Page 98, line 7, after “(1)(a)” insert “or (b)”
- 76 Page 98, line 13, at end insert –
- “() Before publishing guidance revised under subsection (4), Monitor must consult the persons mentioned in subsection (2).”

Clause 75

- 77 Page 98, line 15, leave out subsection (1) and insert –
- “() For the purposes of Part 3 of the Enterprise Act 2002 (completed and anticipated mergers), each of the following cases is to be treated as being (in so far as it would not otherwise be) a case in which two or more enterprises cease to be distinct enterprises.”
- 78 Page 98, line 18, leave out “have ceased” and insert “cease”
- 79 Page 98, line 21, leave out “have ceased” and insert “cease”
- 80 Page 98, line 21, at end insert –
- “(3A) Where the Office of Fair Trading decides to carry out an investigation under Part 3 of the Enterprise Act 2002 of a matter involving an NHS foundation trust, it must as soon as reasonably practicable notify Monitor.
 - (3B) As soon as reasonably practicable after receiving a notification under subsection (3A), Monitor must provide the Office of Fair Trading with advice on –
 - (a) the effect of the matter under investigation on benefits (in the form of those within section 30(1)(a) of the Enterprise Act 2002 (relevant customer benefits)) for people who use health care services provided for the purposes of the NHS, and
 - (b) such other matters relating to the matter under investigation as Monitor considers appropriate.”

Clause 76

- 81 Leave out Clause 76

Clause 77

- 82 Leave out Clause 77

Clause 78

- 83 Leave out Clause 78

Clause 82

- 84 Page 102, line 16, leave out first “a” and insert “any”
- 85 Page 102, line 41, leave out subsection (8) and insert –
- “() Where an exemption is granted the Secretary of State –
 - (a) if the exemption is granted to a prescribed person, must give notice of it to that person, and

(b) must publish the exemption.”

Clause 85

86 Page 104, line 13, leave out subsection (3) and insert –

“(3) Monitor may not set or revise the criteria unless the Secretary of State has by order approved the criteria or (as the case may be) revised criteria.”

Clause 93

87 Page 107, line 13, leave out “National Health Service Commissioning Board” and insert “NHS Commissioning Board Authority”

88 Page 107, line 14, leave out “clinical commissioning group” and insert “Primary Care Trust”

89 Page 107, line 15, leave out “and its Healthwatch England committee”

90 Page 107, line 22, at end insert –

“() If, at the time Monitor discharges the function under subsection (7), the day specified by the Secretary of State for the purposes of section 14A of the National Health Service Act 2006 has passed or section 6 or 178 has come into force –

- (a) in the case of section 14A of the National Health Service Act 2006, the reference in subsection (8)(c) to every Primary Care Trust is to be read as a reference to every clinical commissioning group;
- (b) in the case of section 6, the reference in subsection (8)(b) to the NHS Commissioning Board Authority is to be read as a reference to the National Health Service Commissioning Board;
- (c) in the case of section 178, the reference in subsection (8)(d) to the Care Quality Commission is to be read as including a reference to its Healthwatch England committee.”

Clause 95

91 Page 108, line 21, at end insert “provided for the purposes of the NHS”

92 Page 108, line 23, at end insert –

- “(da) for the purpose of enabling health care services provided for the purposes of the NHS to be provided in an integrated way where Monitor considers that this would achieve one or more of the objectives referred to in subsection (2A);
- (db) for the purpose of enabling the provision of health care services provided for the purposes of the NHS to be integrated with the provision of health-related services or social care services where Monitor considers that this would achieve one or more of the objectives referred to in subsection (2A);
- (dc) for the purpose of enabling co-operation between providers of health care services for the purposes of the NHS where Monitor considers that this would achieve one or more of the objectives referred to in subsection (2A);”

93 Page 108, line 32, at end insert –

“(2A) The objectives referred to in subsection (2)(da), (db) and (dc) are –

- (a) improving the quality of health care services provided for the purposes of the NHS (including the outcomes that are achieved from their provision) or the efficiency of their provision,
- (b) reducing inequalities between persons with respect to their ability to access those services, and
- (c) reducing inequalities between persons with respect to the outcomes achieved for them by the provision of those services.”

94 Page 108, line 39, at end insert –

“() In subsection (2)(db), “health-related services” and “social care services” each have the meaning given in section 59(11).”

Clause 96

95 Page 109, line 38, after “NHS” insert “in order to ensure the continued provision of one or more of the health care services that the licence holder provides for those purposes”

96 Page 109, line 40, at end insert “in order to ensure the continued provision of one or more of the health care services that the licence holder provides for those purposes”

After Clause 97

97 Insert the following new Clause –

“Notification of commissioners where continuation of services at risk

- (1) This section applies where Monitor –
 - (a) takes action in the case of a licence holder in reliance on a condition in the licence under section 96(1)(i), (j) or (k), and
 - (b) does so because it is satisfied that the continued provision for the purposes of the NHS of health care services to which that condition applies is being put at significant risk by the configuration of certain health care services provided for those purposes.
- (2) In subsection (1), a reference to the provision of services is a reference to their provision by the licence holder or any other provider.
- (3) Monitor must as soon as reasonably practicable notify the National Health Service Commissioning Board and such clinical commissioning groups as Monitor considers appropriate –
 - (a) of the action it has taken, and
 - (b) of its reasons for being satisfied as mentioned in subsection (1)(b).
- (4) Monitor must publish for each financial year a list of the notifications under this section that it has given during that year; and the list must include for each notification a summary of Monitor’s reasons for being satisfied as mentioned in subsection (1)(b).
- (5) The Board and clinical commissioning groups, having received a notification under this section, must have regard to it in arranging for the provision of health care services for the purposes of the NHS.”

Clause 101

98 Page 115, line 10, at end insert “or the conditions of a particular licence”

Clause 107

99 Page 118, line 5, leave out from “include” to the end of line 7 and insert “information which it is satisfied is –

- (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of the person to whom it relates;
- (b) information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm that person’s interests.”

Clause 109

100 Page 118, line 26, leave out subsection (1) and insert –

- “(1) Where Monitor is satisfied that the governance of an NHS foundation trust is such that the trust will fail to comply with the conditions of its licence, Monitor may include in the licence such conditions relating to governance as it considers appropriate for the purpose of reducing that risk.
- (1A) The circumstances in which Monitor may be satisfied as mentioned in subsection (1) include circumstances where it is satisfied that the council of governors, the board of directors or the council of governors and board of directors taken together are failing –
 - (a) to secure compliance with conditions in the trust’s licence, or
 - (b) to take steps to reduce the risk of a breach of a condition in the trust’s licence.”

101 Page 118, line 35, leave out from “notice” to end of line 39 and insert “require the trust to –”

102 Page 119, line 3, leave out from “has” to end of line 7 and insert “failed or is failing to comply with a notice under subsection (4), Monitor may do one or more of the things which it may require the trust to do under that subsection.”

103 Page 119, line 8, leave out from “exercising” to end of line 10 and insert “in relation to a condition included in a licence under subsection (1) the powers conferred by sections 103 and 104 (breach of licence condition etc: enforcement powers which apply during and after period in which this section and sections 110 to 112 have effect).”

Clause 110

104 Page 119, line 27, leave out subsections (1) to (6) and insert –

- “(1) Section 109 ceases to have effect in relation to an NHS foundation trust on such day as the Secretary of State may by order specify.
- (2) Different days may be appointed in relation to different NHS foundation trusts.
- (3) A day specified under subsection (1) must not –
 - (a) in the case of an NHS foundation trust authorised on or before 1 April 2014, be before 1 April 2016;

- (b) in the case of an NHS foundation trust authorised after 1 April 2014, be before the end of the period of two years beginning with the day on which the trust was authorised.”

105 Page 120, line 18, leave out paragraph (a)

Clause 111

106 Page 120, line 29, leave out from “110” to “, the” in line 30

107 Page 121, line 3, leave out subsections (6) to (11) and insert—

- “(6) The Secretary of State, having received a notification under subsection (4)(c), must review Monitor’s determination under subsection (4)(b).”

Clause 112

108 Page 121, line 38, leave out paragraph (e)

Clause 115

109 Page 124, line 14, leave out subsection (4)

Clause 116

110 Page 124, line 38, leave out “licence holder” and insert “relevant provider”

111 Page 125, line 26, leave out “guidance” and insert “such guidance as Monitor proposes to provide for in the national tariff”

112 Page 126, line 29, at end insert—

“(13A) In this section, a “relevant provider” is—

- (a) a licence holder, or
(b) such other person, of such description as may be prescribed, as provides health care services for the purposes of the NHS.”

113 Page 126, line 30, leave out subsection (14)

Clause 118

114 Page 127, line 11, leave out “licence holders” and insert “relevant providers”

115 Page 127, line 19, leave out “licence holders” and insert “relevant providers”

116 Page 127, line 25, leave out “licence holders” and insert “relevant providers”

117 Page 127, line 28, leave out “licence holders” and insert “relevant providers”

118 Page 127, line 39, leave out “licence holder’s” and insert “relevant provider’s”

119 Page 127, line 40, at end insert—

- “() In this section and section 119 and Schedule 12, “relevant provider” has the meaning given in section 116(13A).”

120 Page 127, line 41, leave out subsection (7)

Clause 119

- 121 Page 128, line 4, after “by” insert “clinical commissioning groups or”
- 122 Page 128, line 4, leave out “licence holders” and insert “relevant providers”
- 123 Page 128, line 38, after “such” insert “clinical commissioning groups or”
- 124 Page 128, line 38, leave out “licence holders” and insert “relevant providers”

Clause 121

- 125 Page 129, line 28, after “are” insert “not”

After Clause 123

- 126 Insert the following new Clause –

“Applications under section 123: notification of commissioners

- (1) This section applies where Monitor –
 - (a) receives an application under section 123, and
 - (b) is satisfied that the continued provision for the purposes of the NHS of health care services to which a condition in the applicant’s licence under section 96(1)(i), (j) or (k) applies is being put at significant risk by the configuration of certain health care services provided for those purposes.
- (2) In subsection (1), a reference to the provision of services is a reference to their provision by the applicant or any other provider.
- (3) Monitor must as soon as reasonably practicable notify the National Health Service Commissioning Board and such clinical commissioning groups as Monitor considers appropriate –
 - (a) of its receipt of the application, and
 - (b) of its reasons for being satisfied as mentioned in subsection (1)(b).
- (4) Monitor must publish for each financial year a list of the notifications under this section that it has given during that year; and the list must include for each notification a summary of Monitor’s reasons for being satisfied as mentioned in subsection (1)(b).
- (5) The Board and clinical commissioning groups, having received a notification under this section, must have regard to it in arranging for the provision of health care services for the purposes of the NHS.”

Clause 124

- 127 Page 131, line 29, leave out “licence holder” and insert “relevant provider”
- 128 Page 131, line 38, at end insert –
- “() In this section, “relevant provider” has the meaning given in section 116(13A).”

Clause 127

- 129 Page 134, line 46, at end insert “or (b)”

Clause 131

- 130** Page 136, line 40, after “provider” insert “of health care services for the purposes of the NHS (referred to in this Chapter as “a provider”)”

Clause 135

- 131** Page 139, line 44, at end insert “(but for this not to affect any other method of recovery)”

Clause 138

- 132** Page 141, line 6, leave out second “that” and insert “the current financial year”
- 133** Page 141, line 19, after “each” insert “potentially liable”
- 134** Page 141, line 25, leave out “the rate of levy” and insert “those factors”
- 135** Page 141, line 34, at end insert –
- “() In this section and section 139 a “potentially liable provider” means a provider on whom Monitor is proposing to impose the levy for the coming financial year (regardless of the amount (if any) that the provider would be liable to pay as a result of the proposal).”

Clause 139

- 136** Page 141, line 36, after “more” insert “potentially liable”
- 137** Page 141, line 42, after “more” insert “potentially liable”
- 138** Page 142, line 5, after first “the” insert “potentially liable”
- 139** Page 142, line 7, after first “the” insert “potentially liable”
- 140** Page 142, line 35, after first “the” insert “potentially liable”
- 141** Page 142, line 38, after first “the” insert “potentially liable”

Clause 140

- 142** Page 143, line 38, at end insert “(but this does not affect any other method of recovery)”

Clause 147

- 143** Page 147, line 38, at end insert –
- “() Until section 6 comes into force, the references in this Part to the National Health Service Commissioning Board (other than the reference in section 93(11)(b)) are to be read as references to the NHS Commissioning Board Authority.
- () Until the day specified by Secretary of State for the purposes of section 14A of the National Health Service Act 2006, the references in this Part to a clinical commissioning group (other than the reference in section 93(11)(a)) are to be read as references to a Primary Care Trust.

- () Until section 178 comes into force, the following provisions in this Part are to be read as if the words “and its Healthwatch England committee” were omitted –
- (a) section 82(4)(c);
 - (b) section 83(5)(a)(iii);
 - (c) section 94(2)(e);
 - (d) section 98(2)(e).”

Clause 151

144 Page 151, line 6, at end insert –

- “() In sub-paragraph (3) of that paragraph, in paragraph (b) for “any records” substitute “the records”. ”

Clause 153

145 Page 152, line 38, at end insert –

- “() In paragraph 22(1) of Schedule 7, omit paragraph (e) (duty to make forward plan available to the public). ”

Clause 161

146 Page 159, line 12, at end insert –

- “(2A) An NHS foundation trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.”

147 Page 159, line 14, at end insert –

- “() for “The” substitute “An”, ”

148 Page 159, line 16, at end insert –

- “() After subsection (3) of that section insert –
- “(3A) Each annual report prepared by the NHS foundation trust must give information on the impact that income received by the trust otherwise than from the provision of goods and services for the purposes of the health service in England has had on the provision by the trust of goods and services for those purposes.
 - (3B) Each document prepared by an NHS foundation trust under paragraph 27 of Schedule 7 (forward plan) must include information about –
 - (a) the activities other than the provision of goods and services for the purposes of the health service in England that the trust proposes to carry on, and
 - (b) the income it expects to receive from doing so.
 - (3C) Where a document which is being prepared under paragraph 27 of Schedule 7 contains a proposal that an NHS foundation trust carry on an activity of a kind mentioned in subsection (3B)(a), the council of governors of the trust must –

- (a) determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the trust of its principal purpose or the performance of its other functions, and
 - (b) notify the directors of the trust of its determination.
- (3D) An NHS foundation trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the council of governors of the trust voting approve its implementation.”

Clause 170

149 Page 163, line 34, leave out “(but not the following “or”)

Clause 172

150 Page 166, line 35, at end insert –

“() If, at any time before section 6 comes into force, Monitor obtains the approval of the NHS Commissioning Board Authority to publish guidance under section 65DA(4)(c) or (5) of the National Health Service Act 2006, that approval is to be treated for the purposes of subsection (6)(b) of that section as approval obtained from the National Health Service Commissioning Board.”

Clause 173

151 Page 168, line 8, leave out “(7)(d)” and insert “(7)(c) and (d)”

Clause 175

152 Page 173, line 5, leave out “65K” and insert “65KC”

153 Page 173, line 7, at end insert –

“() a copy of any information published under section 65D,”

154 Page 173, line 8, at end insert –

“() a copy of any statement provided under section 65F,”

155 Page 173, line 9, after “65F,” insert “65G,”

156 Page 173, line 10, after “65KB” insert “, 65KC”

157 Page 173, line 11, after “statement” insert “published or provided”

158 Page 173, line 13, at end insert “or 65KC”

159 Page 173, line 18, leave out “65K(4)” and insert “65KC(3)”

160 Page 173, line 19, leave out paragraph (d) and insert –

“(d) for “65L(2), (4) or (5)” substitute “65L(2) or (7), 65LA(3).”

161 Page 173, line 34, leave out “65K” and insert “65KC”

162 Page 173, line 36, at end insert –

- “() a copy of any information published under section 65D,”
- 163 Page 173, line 37, at end insert –
“() a copy of any statement provided under section 65F,”
- 164 Page 173, line 38, after “65F,” insert “65G,”
- 165 Page 173, line 39, after “65KB” insert “, 65KC”
- 166 Page 173, line 40, after “statement” insert “published or provided”
- 167 Page 173, line 42, at end insert “or 65KC”

Clause 178

- 168 Page 175, leave out lines 26 to 29
- 169 Page 175, line 30, leave out subsection (3) and insert –
“(3) After sub-paragraph (5) insert –
“(5A) Regulations under sub-paragraph (1A) must make provision requiring a person who has power to appoint a member of the Healthwatch England committee to secure that a majority of the members of the committee are not members of the Commission.
(5B) Regulations under sub-paragraph (1A) may specify other results which a person who has power to appoint a member of the committee must secure.
(5C) Regulations under sub-paragraph (1A) may, in particular, make provision as to –
(a) eligibility for appointment;
(b) procedures for selecting or proposing persons for appointment.
(5D) Regulations under sub-paragraph (1A) may, in particular, make provision as to –
(a) the removal or suspension of members of the committee;
(b) the payment of remuneration and allowances to members.””
- 170 Page 175, line 34, leave out “*Advice given by Healthwatch England*” and insert “*Healthwatch England and Local Healthwatch organisations*”
- 171 Page 175, line 36, after “(2)” insert “, (2A), (2B)”
- 172 Page 176, line 2, leave out “advice on” and insert “general advice”
- 173 Page 176, line 3, leave out “or in pursuance of”
- 174 Page 176, line 5, at end insert –
“(aa) the making of arrangements in pursuance of arrangements made under section 221(1) of that Act (see section 222(2B) of that Act);”
- 175 Page 176, line 6, leave out “by the organisations”
- 176 Page 176, line 7, at end insert –

“(2A) The function in this subsection is a power to make recommendations of a general nature to English local authorities about the making of arrangements under section 221(1) of that Act.

(2B) The function in this subsection is a power, where the Healthwatch England committee is of the opinion that the activities specified in section 221(2) of that Act are not being carried on properly in an English local authority’s area, to give the authority concerned written notice of its opinion.”

177 Page 176, line 35, at end insert –

“45AA Conflicts of interest

(1) In making arrangements under section 45A(1), the Commission must have regard to any conflicts guidance issued by the Secretary of State.

(2) In exercising functions on behalf of the Commission, the Healthwatch England committee must have regard to any conflicts guidance issued by the Secretary of State.

(3) In this section, “conflicts guidance” means guidance about managing conflicts between –

- (a) the exercise of functions by the Commission, and
- (b) the exercise of functions by the Healthwatch England committee on the Commission’s behalf.”

178 Page 176, line 47, at end insert “and to every Local Healthwatch organisation”

179 Page 177, line 2, at end insert –

“(3A) Where a recommendation is made to the committee under section 221(2)(ga) of the Local Government and Public Involvement in Health Act 2007 (reports under subsection (3)), the committee must have regard to the recommendation.”

180 Page 178, line 5, leave out subsection (14) and insert –

“(14) The Healthwatch England committee is to be treated for the purposes of section 2(1) of the Public Bodies (Admission to Meetings) Act 1960 as a body that includes all the members of the Care Quality Commission.”

Clause 179

181 Leave out Clause 179

Clause 180

182 Page 179, line 15, after “(2)” insert “–

- (a) in each of paragraphs (a) to (c), before “people” insert “local”, and
- (b) ”

183 Page 179, line 28, after “Commission);” insert –

“(ga) making recommendations to that committee to publish reports under section 45B(3) of the Health and Social Care Act 2008 about particular matters;”

184 Page 179, line 37, at end insert –

“() After subsection (3A) insert –

“(3B) Each local authority must ensure that only one set of arrangements under subsection (1) in relation to its area is in force at any one time.””

185 Page 179, line 37, at end insert –

“() In subsection (6), after the definition of “local care services” insert –
 ““local people”, in relation to a local authority, means –
 (a) people who live in the local authority’s area,
 (b) people to whom care services are being or may be provided in that area,
 (c) people from that area to whom care services are being provided in any place, and
 (d) people who are (taken together) representative of the people mentioned in paragraphs (a) to (c);”.”

186 Page 179, line 38, leave out subsection (7) and insert –

“(7) In the title to section 221, omit “: local involvement networks.”

187 Page 179, line 39, at end insert –

“() For the cross-heading preceding that section substitute “Local arrangements”.”

188 Page 179, line 39, at end insert –

“() After section 45B of the Health and Social Care Act 2008 (inserted by section 178(4)), insert –

“45C Granting licence to use trade mark

- (1) The Commission may grant a Local Healthwatch organisation a licence authorising the use, in relation to the carrying on of activities under arrangements made under section 221(1) of the Local Government and Public Involvement in Health Act 2007, of a registered trade mark of which the Commission is the proprietor.
- (2) A licence under this section may not provide for the grant of a sub-licence by the licensee other than a sub-licence authorising the use of the mark by a Local Healthwatch contractor in relation to the carrying on of Local Healthwatch arrangements.
- (3) In this section –
 “Local Healthwatch arrangements” has the meaning given by section 222 of the Local Government and Public Involvement in Health Act 2007,
 “Local Healthwatch contractor” has the meaning given by section 223 of that Act, and
 “registered trade mark” and “use” have the same meaning as in the Trade Marks Act 1994.””

Clause 181

189 Page 180, leave out lines 2 to 4 and insert –

“(2) The arrangements must be made with a body corporate which –
 (a) is a social enterprise, and

- (b) satisfies such criteria as may be prescribed by regulations made by the Secretary of State.
 - (2A) For so long as the arrangements are in force, the body with which they are made—
 - (a) has the function of carrying on in A’s area the activities specified in section 221(2), and
 - (b) is to be known as the “Local Healthwatch organisation” for A’s area.
 - (2B) But the arrangements may authorise the Local Healthwatch organisation to make, in pursuance of those arrangements, arrangements (“Local Healthwatch arrangements”) with a person (other than A) for that person—
 - (a) to assist the organisation in carrying on in A’s area some or all of the activities, or
 - (b) (subject to provision made under section 223(2)(e)) to carry on in A’s area some (but not all) of the activities on the organisation’s behalf.””
- 190** Page 180, line 5, leave out subsection (3) and insert—
- “(3) In subsection (3), for the words from the beginning to “who is not” substitute “None of the following is capable of being a Local Healthwatch organisation”.”
- 191** Page 180, line 7, leave out subsection (4) and insert—
- “(4) For subsection (4) substitute—
- “(4) The arrangements must secure the result that Local Healthwatch arrangements will not be made with a body of a description specified in subsection (3) or with the National Health Service Commissioning Board.””
- 192** Page 180, line 19, leave out subsection (7) and insert—
- “(7) For subsection (8) substitute—
- “(8) For the purposes of this section, a body is a social enterprise if—
- (a) a person might reasonably consider that it acts for the benefit of the community in England, and
 - (b) it satisfies such criteria as may be prescribed by regulations made by the Secretary of State.
- (9) Regulations made by the Secretary of State may provide that activities of a prescribed description are to be treated as being, or as not being, activities which a person might reasonably consider to be activities carried on for the benefit of the community in England.
- (10) In subsections (8) and (9), “community” includes a section of the community; and regulations made by the Secretary of State may make provision about what does, does not or may constitute a section of the community.””
- 193** Page 180, line 19, at end insert—
- “() For the title to section 222 substitute “Local Healthwatch organisations.”
- 194** Page 180, line 19, at end insert—

“() After section 222 insert—

“222A Local authority arrangements: conflicts of interest

- (1) In making arrangements under section 221(1), a local authority must have regard to any conflicts guidance issued by the Secretary of State.
- (2) Arrangements under section 221(1) must require the Local Healthwatch organisation, in exercising its function of carrying on the activities specified in section 221(2) or in making Local Healthwatch arrangements, to have regard to any conflicts guidance issued by the Secretary of State.
- (3) In this section, “conflicts guidance” means guidance about managing conflicts between—
 - (a) the making of arrangements under section 221(1), and
 - (b) the carrying-on of the activities specified in section 221(2).
- (4) In this section, “Local Healthwatch arrangements” has the meaning given by section 222.””

195 Page 180, line 20, leave out subsections (8) to (11)

After Clause 181

196 Insert the following new Clause—

“Local arrangements: power to make further provision

- (1) Section 223 of the Local Government and Public Involvement in Health Act 2007 (power to make further provision about local authority arrangements) is amended as follows.
- (2) In subsection (1), for “require prescribed provision to be included in local involvement network arrangements” substitute “include prescribed provision”.
- (3) After that subsection insert—

“(1A) The Secretary of State may make regulations which provide that local authority arrangements must require Local Healthwatch arrangements to include prescribed provision.”
- (4) In subsection (2)—
 - (a) for “must require local involvement network arrangements to include” substitute “must include or (as the case may be) must require Local Healthwatch arrangements to include”,
 - (b) in paragraphs (a), (c) and (d), for “a local involvement network” substitute “a Local Healthwatch organisation or a Local Healthwatch contractor”, and
 - (c) after paragraph (d) insert “;
 - (e) prescribed provision relating to the activities which a Local Healthwatch contractor may not carry on on a Local Healthwatch organisation’s behalf;
 - (f) prescribed provision relating to the obtaining by a Local Healthwatch organisation of a licence under section 45C of the Health and Social Care Act 2008

- and the grant by the organisation to a Local Healthwatch contractor of a sub-licence;
- (g) prescribed provision relating to the use by a Local Healthwatch organisation or a Local Healthwatch contractor of the trade mark to which a licence under that section relates;
 - (h) prescribed provision relating to the infringement of the trade mark to which a licence under that section relates;
 - (i) prescribed provision relating to the imposition of a requirement on a Local Healthwatch organisation to act with a view to securing that its Local Healthwatch contractors (taken together) are representative of—
 - (i) people who live in the local authority’s area,
 - (ii) people to whom care services are being or may be provided in that area, and
 - (iii) people from that area to whom care services are being provided in any place.”
- (5) After subsection (2) insert—
- “(2A) The provision which may be prescribed in relation to a Local Healthwatch contractor includes provision that relates to the contractor—
- (a) only in so far as it assists the Local Healthwatch organisation in the carrying on of activities specified in section 221(2);
 - (b) only in so far as it carries on such activities on the organisation’s behalf.
- (2B) Regulations under this section may make provision which applies to all descriptions of Local Healthwatch contractor, which applies to all those descriptions subject to specified exceptions or which applies only to such of those descriptions as are prescribed.”
- (6) In subsection (3)—
- (a) before the definition of “a local involvement network” insert—
 - ““care services” has the meaning given by section 221;”,
 - (b) omit the definition of “a local involvement network”,
 - (c) for the definition of “local involvement network arrangements” substitute—
 - ““Local Healthwatch arrangements” has the meaning given by section 222;”,
 - (d) after that definition insert—
 - ““Local Healthwatch contractor”, in relation to a Local Healthwatch organisation, means a person with whom the organisation makes Local Healthwatch arrangements;”, and
 - (e) after the definition of “prescribed provision” insert “; “trade mark”, and “use” and “infringement” in relation to a trade mark, each have the same meaning as in the Trade Marks Act 1994.””

Clause 182

- 197 Page 181, line 13, leave out “or the Public Service Ombudsman for Wales” and insert “;
- (ca) a complaint to the Public Services Ombudsman for Wales which relates to a Welsh health body;”
- 198 Page 181, line 14, at end insert –
- “() a complaint under section 73C(1) of the National Health Service Act 2006;
- () a complaint to a Local Commissioner under Part 3 of the Local Government Act 1974 about a matter which could be the subject of a complaint under section 73C(1) of the National Health Service Act 2006; or”
- 199 Page 181, line 29, leave out subsection (5)
- 200 Page 181, line 36, leave out “or” and insert “the arrangements or arrangements made”
- 201 Page 181, line 41, leave out from “to” to end of line 44 and insert “ –
- (a) a person providing services under arrangements under this section;
- (b) a person arranging for the provision of services in pursuance of arrangements under this section;
- (c) a person providing services under arrangements made in pursuance of arrangements under this section.”
- 202 Page 181, line 45, leave out subsection (8)
- 203 Page 182, line 2, leave out “or in pursuance of arrangements under this section” and insert “arrangements under this section or arrangements made in pursuance of the arrangements”
- 204 Page 182, line 26, at end insert –
- ““Welsh health body” means –
- (a) a Local Health Board,
- (b) an NHS trust managing a hospital or other establishment or facility in Wales,
- (c) a Special Health Authority not discharging functions only or mainly in England,
- (d) an independent provider in Wales (within the meaning of the Public Services Ombudsman (Wales) Act 2005),
- (e) a family health service provider in Wales (within the meaning of that Act), or
- (f) a person with functions conferred under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003.”

Clause 183

- 205 Page 182, line 42, after “organisation” insert “or a Local Healthwatch contractor”
- 206 Page 183, line 1, leave out “or in pursuance of”
- 207 Page 183, leave out lines 4 and 5 and insert –

- “(b) in compliance with a requirement imposed by virtue of section 223(2)(i).”
- 208** Page 183, line 5, at end insert –
- “(3A) For the purposes of subsection (1), something is done by a Local Healthwatch contractor if it is done by that contractor in the carrying-on, under Local Healthwatch arrangements, of activities specified in section 221(2).”
- 209** Page 183, line 5, at end insert –
- “() After subsection (4) insert –
- “(5) In this section –
- “Local Healthwatch arrangements” has the meaning given by section 222;
- “Local Healthwatch contractor” has the meaning given by section 223.””
- 210** Page 183, line 7, after “organisations” insert “or contractors”
- 211** Page 183, line 11, after “organisation” insert “or a Local Healthwatch contractor”
- 212** Page 183, line 12, leave out subsection (7) and insert –
- “(7) In subsection (4), in paragraph (a), after “section 221(1)” insert “or Local Healthwatch arrangements”.”
- 213** Page 183, line 13, at end insert –
- “() After subsection (5) insert –
- “(5A) In this section –
- “Local Healthwatch arrangements” has the meaning given by section 222;
- “Local Healthwatch contractor” has the meaning given by section 223.””
- 214** Page 183, line 16, after “organisations” insert “or contractors”
- 215** Page 183, line 19, after “organisation” insert “or a Local Healthwatch contractor”
- 216** Page 183, line 23, leave out “or in pursuance of”
- 217** Page 183, line 24, after “221(2).” insert –
- “(7A) For the purposes of this section, something is done by a Local Healthwatch contractor if it is done by that contractor in the carrying-on, under Local Healthwatch arrangements, of activities specified in section 221(2).”
- 218** Page 183, line 24, at end insert –
- “() In subsection (8), before the definition of “overview and scrutiny committee” insert –
- ““Local Healthwatch arrangements” has the meaning given by section 222;
- “Local Healthwatch contractor” has the meaning given by section 223;”.”

Clause 184

219 Leave out Clause 184

Clause 185

220 Page 184, line 29, leave out subsection (2) and insert –

“(2) In subsection (2), omit “by a local authority with another person (“H”).”

221 Page 184, line 33, leave out sub-paragraph (i)

222 Page 184, line 35, leave out sub-paragraph (ii) and insert –

“(ii) omit “, for each local involvement network,”

223 Page 184, line 37, leave out sub-paragraph (iii) and insert –

“(iii) for “the network”, in the first place it appears, substitute “the Local Healthwatch organisation”,

(iiia) for “the network”, in the second place it appears, substitute “the organisation”,

224 Page 184, line 39, leave out “or (as the case may be)” and insert “the arrangements or arrangements made”

225 Page 184, line 40, leave out paragraph (b)

226 Page 184, line 41, leave out paragraph (c) and insert –

“(c) omit sub-paragraph (ii),”

227 Page 185, line 3, leave out subsection (4)

228 Page 185, line 13, leave out “or H in respect of the organisation” and insert “in its capacity as such, and the amounts spent by its Local Healthwatch contractors in their capacity as such,”

229 Page 185, line 31, leave out “or” and insert “the arrangements made under section 221(1) or arrangements made”

230 Page 185, line 33, at end insert –

“() In subsection (9), after the definition of “financial year” insert –

““Local Healthwatch contractor” has the meaning given by section 223;”

Clause 186

231 Page 185, line 43, leave out from “the” to end of line 45 and insert “Local Healthwatch organisation for the authority’s area.”

232 Page 186, line 1, leave out subsection (3) and insert –

“(3) A scheme under this section may make provision for rights and liabilities relating to an individual’s contract of employment; and the scheme may, in particular, make provision which is the same as or similar to provision in the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

(3A) A scheme under this section may provide for the transfer of property, rights or liabilities –

- (a) whether or not they would otherwise be capable of being transferred;
 - (b) irrespective of any requirement for consent that would otherwise apply.
- (3B) A scheme under this section may create rights, or impose liabilities, in relation to property, rights or liabilities transferred.
- (3C) A scheme under this section may provide for things done by or in relation to the transferor for the purposes of or in connection with anything transferred to be—
- (a) treated as done by or in relation to the transferee or its employees;
 - (b) continued by or in relation to the transferee or its employees.
- (3D) A scheme under this section may in particular make provision about continuation of legal proceedings.”

233 Page 186, line 8, at end insert—

- “() A scheme under this section may include supplementary, incidental and consequential provision.”

After Clause 186

234 Insert the following new Clause—

“Consequential provision

- (1) In the Schedule to the Public Bodies (Admission to Meetings) Act 1960, after paragraph (bk) (as inserted by paragraph 2 of Schedule 13) insert—
 - “(bl) Local Healthwatch organisations, as regards the carrying on of activities specified in section 221(1) of the Local Government and Public Involvement in Health Act 2007 (local care services);”.
- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975, at the appropriate place insert—

“Director of a Local Healthwatch organisation.”
- (3) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, at the appropriate place insert—

“Director of a Local Healthwatch organisation.”
- (4) In Part 2 of Schedule 1 to the Freedom of Information Act 2000 (local government), after paragraph 35D insert—

“35E A Local Healthwatch organisation, in respect of information held in connection with—

 - (a) arrangements made under section 221(1) of the Local Government and Public Involvement in Health Act 2007, or
 - (b) arrangements made in pursuance of arrangements made under section 221(1) of that Act.”
- (5) In section 65H of the National Health Service Act 2006 (NHS foundation trust special administration provisions: consultation requirements), in subsection (8), for subsection (e) substitute—

“(e) a Local Healthwatch organisation;”.

- (6) In section 4 of the Health and Social Care Act 2008 (matters to which the Care Quality Commission must have regard) –
- (a) in subsection (1)(c) –
 - (i) for “local involvement networks” substitute “Local Healthwatch organisations or Local Healthwatch contractors”, and
 - (ii) omit “in their areas”;
 - (b) for subsection (3) substitute –
 - “(3) In subsection (1)(c), “Local Healthwatch contractor” has the meaning given by section 223 of the Local Government and Public Involvement in Health Act 2007.”

Clause 187

235 Page 188, line 15, at end insert –

- “() In subsection (5), for “this section, section 245 and section 246” substitute “this section and section 245”.”

Clause 188

236 Page 188, line 46, at end insert –

- “() In subsection (2)(c), in each of sub-paragraphs (i) and (ii), for “relevant functions of the committee” substitute “relevant functions exercisable by the committee”.”

237 Page 189, line 25, at end insert “and

- (b) omit the words from “and as if” to the end of the subsection.”

238 Page 189, line 31, at end insert –

- “(12A) Omit section 247A (application to local authorities without overview and scrutiny committees).”

239 Page 189, line 32, leave out from “(2)” to “of” in line 33 and insert “, (6), (10), (12)(a) and (12A), paragraphs 75(2), 76, 77(2) and (5)(a) and 78”

Clause 193

240 Page 194, line 17, leave out “other functions of the authority” and insert “functions that are exercisable by the authority”

Clause 212

241 Page 211, line 32, leave out “, after sub-paragraph (c) insert –” and insert “–

- (a) omit the “or” preceding paragraph (c), and
- (b) after that paragraph insert “; or”

Clause 231

242 Page 233, line 10, at end insert “or section 117 of the Mental Health Act 1983 (after-care)”

Clause 234

243 Page 235, line 6, at end insert –

- “() But provision made under subsection (8) may impose a requirement on a local authority, or a description of local authorities, only if the requirement relates to –
- (a) the exercise by an authority of any of its functions under section 2B or 111 of, or paragraphs 1 to 7B or 13 of Schedule 1 to, the National Health Service Act 2006;
 - (b) the exercise by an authority of any of its functions by virtue of section 6C(1) or (3) of that Act;
 - (c) anything done by an authority in pursuance of arrangements under section 7A of that Act.”

244 Page 235, line 8, leave out “other than a local authority”

Clause 240

245 Page 237, line 23, leave out “its functions” and insert “any function it has under or by virtue of any other provision of this Part”

Clause 242

246 Page 238, line 11, at end insert –

- “() For the purposes of this section, a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred.”

Clause 246

247 Page 239, line 16, after “Consultation” insert “with any person”

Clause 247

248 Page 241, line 2, at end insert “or section 117 of the Mental Health Act 1983 (after-care)”

Clause 251

249 Page 242, line 13, leave out second “and” and insert “or”

250 Page 242, line 17, leave out from beginning to second “it” and insert “the Secretary of State considers that the information which could be obtained by complying with the direction is information which”

251 Page 242, line 25, leave out from “if” to “it” in line 26 and insert “the Board considers that the information which could be obtained by complying with the direction is information which”

252 Page 242, line 32, at end insert “or section 117 of the Mental Health Act 1983 (after-care)”

253 Page 242, line 38, at end insert –

- “() The Information Centre may charge the Board a reasonable fee in respect of the cost of complying with a direction given by the Board under subsection (1).”

Clause 252

- 254 Page 242, line 41, leave out second “and” and insert “or”
- 255 Page 242, line 43, leave out from beginning to “it” in line 44 and insert “A request may be made under subsection (1) by a person only if the person considers that the information which could be obtained by complying with the request is information which”
- 256 Page 243, line 6, leave out from “Chapter” to “it” in line 9 and insert “a request under subsection (1) is a mandatory request if –
- (a) it is made by a principal body, and
 - (b) the body considers that the information which could be obtained by complying with the request is information which”
- 257 Page 243, line 27, leave out “relevant” and insert “principal”
- 258 Page 243, line 28, after “to” insert –
- “(i) the code of practice prepared and published by the Centre under section (*Code of practice on confidential information*), and
 - (ii) ”
- 259 Page 243, line 30, leave out “relevant” and insert “principal”

After Clause 252

- 260 Insert the following new Clause –

“Requests for collection under section 252: confidential information

- (1) A request under section 252 is a confidential collection request if it is a request for the Information Centre to establish and operate a system for the collection of information which is in a form which –
- (a) identifies any individual to whom the information relates who is not an individual who provides health care or adult social care, or
 - (b) enables the identity of such an individual to be ascertained.
- (2) A person may make a confidential collection request under section 252 only if the request –
- (a) is a mandatory request,
 - (b) relates to information which the person making the request (“R”) may require to be disclosed to R or to the Information Centre by the person holding it, or
 - (c) relates to information which may otherwise be lawfully disclosed to the Information Centre or to R by the person holding it.”

Clause 254

- 261 Page 244, line 18, leave out “that” and insert “any”
- 262 Page 244, line 22, leave out “collected pursuant to” and insert “obtained by

complying with”

263 Page 244, line 23, leave out “or information derived from such information,”

Clause 255

264 Page 244, line 37, at end insert –

“(2A) But the Information Centre may not impose a requirement under subsection (1)(a) for the purpose of complying with a confidential collection request falling within section (*Requests for collection under section 252: confidential information*)(2)(c).

(2B) In such a case, the Information Centre may, however, request any person mentioned in subsection (2) to provide it with any information which the Centre considers it necessary or expedient for the Centre to have for the purpose of complying with the request.”

265 Page 244, line 44, at end insert –

“() If the Information Centre considers it appropriate to do so, the Centre may make a payment to any person mentioned in subsection (2)(b) who has provided information to the Centre pursuant to a request made under subsection (2B) in respect of the costs to that person of doing so.”

266 Page 245, line 2, leave out “subsection (1)” and insert “this section”

Clause 256

267 Page 245, line 16, leave out “collects pursuant to” and insert “obtains by complying with”

268 Page 245, line 18, leave out “the following provisions of this section” and insert “subsection (3)”

269 Page 245, line 39, leave out “collected pursuant to” and insert “obtained by complying with”

270 Page 245, line 40, leave out “collects pursuant to” and insert “obtains by complying with”

271 Page 246, line 1, leave out “collects pursuant to” and insert “obtains by complying with”

Clause 257

272 Page 246, line 22, leave out “collects pursuant to” and insert “obtains by complying with”

273 Page 246, line 29, after “and” insert “–

(i) the relevant person has consented to the dissemination, or

(ii) ”

274 Page 246, line 31, at end insert –

“() the information is in a form which identifies any individual to whom the information relates who is not a relevant person or enables the identity of such an individual to be ascertained and the individual has consented to the dissemination;”

275 Page 246, line 40, at end insert –

- “(3A) The Information Centre may also disseminate, in such form and manner and at such times as it considers appropriate, any information which it collects pursuant to a direction under section 251 or a request under section 252 (whether or not it falls within subsection (2)) to any person to whom the information could have been lawfully disclosed by the person from whom the Centre collected the information.
- (3B) The Information Centre may also disclose information which it obtains by complying with a direction under section 251 or a request under section 252 (whether or not it falls within subsection (2)) if –
- (a) the information has previously been lawfully disclosed to the public,
 - (b) the disclosure is made in accordance with any court order,
 - (c) the disclosure is necessary or expedient for the purposes of protecting the welfare of any individual,
 - (d) the disclosure is made to any person in circumstances where it is necessary or expedient for the person to have the information for the purpose of exercising functions of that person conferred under or by virtue of any provision of this or any other Act,
 - (e) the disclosure is made in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or
 - (f) the disclosure is made for the purpose of criminal proceedings (whether or not in the United Kingdom).
- (3C) Paragraphs (a), (b) and (f) of subsection (3B) have effect notwithstanding any rule of common law which would otherwise prohibit or restrict the disclosure.”

276 Page 246, line 41, leave out subsections (4) and (5)

277 Page 247, line 5, after “section” insert “or section (*Dissemination: directions under section 251 and requests under section 252*)”

278 Page 247, line 6, leave out from “it)” to first “any” in line 7 and insert “under or by virtue of”

279 Page 247, line 8, leave out subsection (7)

280 Page 247, line 11, at end insert –

- “() For the purposes of this section and section (*Dissemination: directions under section 251 and requests under section 252*) the provision by the Information Centre of information which it has obtained by complying with a direction under section 251 or a request under section 252 to the person who gave the direction or made the request is to be treated as dissemination by the Centre of that information to that person.”

After Clause 257

281 Insert the following new Clause –

“Other dissemination: directions under section 251 and requests under section 252

- (1) A direction under section 251 may require the Information Centre to disseminate information which it obtains by complying with the direction if the information falls within subsection (2).

- (2) Information falls within this subsection if—
- (a) the information is required to be published under section 256;
 - (b) the information is in a form which identifies any relevant person to whom the information relates or enables the identity of such a relevant person to be ascertained and—
 - (i) the relevant person has consented to the dissemination, or
 - (ii) the person giving the direction, after taking into account the public interest as well as the interests of the relevant person, considers that it is appropriate for the information to be disseminated;
 - (c) the information is in a form which identifies any individual to whom the information relates who is not a relevant person or enables the identity of such an individual to be ascertained and the individual has consented to the dissemination;
 - (d) the Centre is prohibited from publishing the information only by virtue of it falling within section 256(2)(c) and the person giving the direction considers it would be in the public interest for the information to be disseminated.
- (3) A direction under section 251 may require the Information Centre to exercise—
- (a) the power conferred by section 257(3A) in relation to information which it collects pursuant to the direction, or
 - (b) any other power it has under or by virtue of any other provision of this Act (other than section 257(1) or (3B)) or any other Act to disseminate information which it obtains by complying with the direction.
- (4) A request under section 252 may request the Information Centre to exercise—
- (a) the power conferred by section 257(1) or (3A) in relation to information which it obtains by complying with the request, or
 - (b) any other power it has to disseminate such information under or by virtue of any other provision of this or any other Act.
- (5) A direction under section 251 may require, and a request under section 252 may request, the Information Centre not to exercise the power conferred by section 257(1) or (3A) in relation to information which it obtains by complying with the direction or request.
- (6) Section 252(3) does not apply in relation to anything included in a mandatory request by virtue of subsection (4) or (5).
- (7) A requirement imposed on, or a request made to, the Information Centre in accordance with this section to disseminate information may include a requirement or request about the persons to whom the information is to be disseminated and the form, manner and timing of dissemination.”

282 Insert the following new Clause—

“Code of practice on confidential information

- (1) The Information Centre must prepare and publish a code in respect of the practice to be followed in relation to the collection, analysis, publication and other dissemination of confidential information concerning, or

connected with, the provision of health services or of adult social care in England.

- (2) For the purposes of this section “confidential information” is—
 - (a) information which is in a form which identifies any individual to whom the information relates or enables the identity of such an individual to be ascertained, or
 - (b) any other information in respect of which the person who holds it owes an obligation of confidence.
- (3) Before publishing the code, the Information Centre must consult—
 - (a) the Secretary of State,
 - (b) the Board, and
 - (c) such other persons as the Centre considers appropriate.
- (4) The Information Centre must not publish the code without the approval of—
 - (a) the Secretary of State, and
 - (b) the Board, so far as the code relates to information concerning, or connected with, the provision of NHS services.
- (5) The Information Centre must keep the code under review and may revise it as it considers appropriate (and a reference in this section to the code includes a reference to any revised code).
- (6) A health or social care body must have regard to the code in exercising functions in connection with the provision of health services or of adult social care in England.
- (7) A person, other than a public body, who provides health services, or adult social care in England, pursuant to arrangements made with a public body exercising functions in connection with the provision of such services or care must, in providing those services or that care, have regard to the code.”

Clause 258

283 Page 247, line 14, leave out “collected” and insert “obtained”

Clause 259

284 Page 247, line 31, leave out “other”

285 Page 247, line 32, leave out “other”

Clause 264

286 Page 249, line 37, leave out “its functions” and insert “any function under or by virtue of any other provision of this or any other Act”

Clause 266

287 Page 250, line 25, at end insert—

- “() For the purposes of this section, a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the

case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred.”

Clause 268

288 Page 251, line 2, at end insert –

“(d) requiring the Centre to exercise such systems delivery functions of the Secretary of State or (as the case may be) the Board as may be specified.”

289 Page 251, line 2, at end insert –

“() A function required to be exercised by a direction given by the Secretary of State or the Board by virtue of subsection (1) is subject to directions given by the Secretary of State or (as the case may be) the Board about the exercise of the function.”

290 Page 251, line 19, at end insert –

“() A power conferred on the Secretary of State under subsection (1)(d) must provide that a direction may include provision about payments by the Secretary of State to the Information Centre for things done in the exercise of the function in respect of which the direction is given.

() A power conferred on the Board under subsection (1)(d) must provide that a direction must permit the Information Centre to charge the Board a reasonable fee in respect of the cost of complying with the direction.

() A power conferred under subsection (1)(d) must provide that the giving of a direction does not prevent the Secretary of State or (as the case may be) the Board from exercising the function in respect of which the direction is given.”

291 Page 251, line 24, at end insert –

““systems delivery function” –

(a) in relation to the Secretary of State, means a function of the Secretary of State which is exercisable in relation to the development or operation of information or communications systems in connection with the provision of health services or of adult social care in England;

(b) in relation to the Board, means a function of the Board which is exercisable in relation to the development or operation of information or communications systems in connection with the provision of NHS services.”

Clause 288

292 Page 261, line 30, at end insert –

“(5) For the purposes of this section a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service in England or (as the case may be) with what otherwise appears to the Secretary of State to be the purpose for which it is conferred; and “the health service” has the same meaning as in the National Health Service Act 2006.””

Clause 294

- 293** Page 265, line 28, after “means” insert “ –
(a) ”
- 294** Page 265, line 30, at end insert “, or
(b) a subsidiary of a company which is formed under that section and wholly owned by the Secretary of State.”

Clause 298

- 295** Page 268, line 13, at end insert –
“() the first regulations under section 82 (licensing requirement: exemption regulations);”
- 296** Page 268, line 13, at end insert –
“() the first order under section 85 (approval by Secretary of State of licensing criteria);”
- 297** Page 268, line 21, leave out paragraph (e)
- 298** Page 269, line 32, leave out subsection (11)

Clause 300

- 299** Page 271, line 5, at end insert –
“() An order under subsection (4) which brings paragraph 16 of Schedule 1A to the National Health Service Act 2006 (inserted by Schedule 2) into force may make provision –
(a) for the duty of a clinical commissioning group under subparagraph (1) or (2) of that paragraph not to apply in relation to the whole or any part of the initial period (within the meaning of Schedule 6), and
(b) for the duty of the Board under paragraph 16 of Schedule A1 to that Act (inserted by Schedule 1) to have effect subject to such modifications specified in the order as the Secretary of State considers appropriate in consequence of the provision made under paragraph (a).”

Schedule 2

- 300** Page 280, leave out lines 32 to 34
- 301** Page 280, line 38, at end insert –
“ The constitution must specify the arrangements made by the clinical commissioning group for discharging its duties under section 14NA(1) to (4).”
- 302** Page 281, leave out lines 33 and 34
- 303** Page 287, line 12, at end insert –

“Seal and evidence

- (1) The application of a clinical commissioning group’s seal must be authenticated by the signature of any person who has been authorised (generally or specially) for that purpose.
- (2) Any instrument which, if executed by an individual, would not need to be under seal may be executed on behalf of a clinical commissioning group by any person who has been authorised (generally or specially) for that purpose.
- (3) A document purporting to be duly executed under a clinical commissioning group’s seal or to be signed on its behalf must be received in evidence and, unless the contrary is proven, taken to be so executed or signed.”

Schedule 4

- 304** Page 293, line 10, leave out sub-paragraph (4) and insert –
 “(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.””
- 305** Page 293, line 34, leave out paragraph 12
- 306** Page 294, line 33, after “Board,” insert –
 “(hb) a subsidiary of a company which is formed under that section and wholly owned by the Secretary of State,”
- 307** Page 294, line 37, leave out “(ha)” and insert “(hb)”
- 308** Page 294, line 42, after “(ha)” insert “or (hb)”
- 309** Page 311, line 30, leave out “57 to 61” and insert “69 to 76”
- 310** Page 312, line 8, at end insert “, and
 () in sub-paragraph (5), omit “in its area””
- 311** Page 312, line 25, leave out “62” and insert “77”
- 312** Page 316, line 3, at end insert –
 “ In section 216 (application of trust property: further provisions), in subsection (3), after “or 214” insert “of this Act or section 294 or 296 of the Health and Social Care Act 2012”.”
- 313** Page 316, line 4, at end insert –
 “() after paragraph (e) insert –
 “(ea) paragraph 11 of Schedule A1,
 (eb) paragraph 14 of Schedule 1A,””
- 314** Page 316, line 21, at end insert –

“ In section 220 (trust property previously held for general hospital purposes), in subsection (2), after “or 214” insert “of this Act or section 294 or 296 of the Health and Social Care Act 2012”.”

315 Page 316, line 29, at end insert –

“() In subsection (9), for “section 224 or 226” substitute “section 225”.”

316 Page 317, line 18, at end insert –

“() In the heading to the section, omit “Strategic Health Authorities and”.”

317 Page 317, line 24, at end insert –

“() In the heading to the section, omit “Strategic Health Authorities and”.”

318 Page 318, line 23, leave out paragraph 127

319 Page 318, line 26, at end insert –

“ After section 254 insert –

“Support functions of the Secretary of State

254A Support functions of the Secretary of State

- (1) The Secretary of State may, for the purpose of assisting any person exercising functions in relation to the health service or providing services for its purposes –
 - (a) provide (or otherwise make available) to the person goods, materials or other facilities;
 - (b) facilitate the recruitment and management of the person’s staff;
 - (c) develop or operate information or communication systems;
 - (d) do such other things to facilitate or support the carrying out of the person’s functions or other activities as the Secretary of State considers appropriate;
 - (e) arrange for any other person to do anything mentioned in paragraphs (a) to (d) or to assist the Secretary of State in doing any such thing.
- (2) The power conferred by subsection (1)(a) includes power to purchase goods and materials for the purpose of providing them or making them available.
- (3) The Secretary of State may, in connection with anything done under subsection (1), make available the services of any person employed by the Secretary of State.
- (4) The powers conferred by this section may be exercised on such terms, including terms as to the making of payments to or by the Secretary of State, as may be agreed.
- (5) In this section, “the health service” does not include that part of the health service that is provided in pursuance of the public health functions of the Secretary of State or local authorities.””

320 Page 318, line 35, at end insert –

“() After subsection (5) insert –

- “(5A) The Secretary of State may by directions to the Board specify the minimum amount which the Board must spend in a financial year in making payments under –
- (a) this section;
 - (b) subsection (1) of this section;
 - (c) subsection (3) of this section.
- (5B) The Secretary of State may by directions to the Board specify –
- (a) a body or description of bodies to whom payments under subsection (1) or (3), or under either or both of those subsections, must be made by the Board in a financial year;
 - (b) functions or activities, or descriptions of functions or activities, in respect of which such payments must be made by the Board in a financial year;
 - (c) the minimum amount that the Board must spend in a financial year in making such payments –
 - (i) to a body or description of bodies specified in relation to the year under paragraph (a);
 - (ii) in respect of functions or activities, or descriptions of functions or activities, specified in relation to the year under paragraph (b);
 - (iii) to a body or description of bodies specified in relation to the year under paragraph (a) in respect of functions or activities or descriptions of functions or activities so specified under paragraph (b).”

321 Page 320, line 9, at end insert “, and
 (b) before paragraph (a) insert –
 “(za) section 14A(1),”.”

322 Page 321, line 2, at end insert –
 “() After the entry for “LPS scheme” insert –

“NHS section
 constitution 1AA(2).”.

Schedule 5

323 Page 321, line 22, leave out sub-paragraphs (2) to (4) and insert –

- “(2) In subsections (6A) and (6B) –
- (a) after “by a” insert “clinical commissioning group or”, and
 - (b) omit “Primary Care Trust or”.
- (3) After subsection (6B), insert –
- “(6C) The references in subsections (6A) and (6B) to a clinical commissioning group are, so far as necessary for the purposes of regulations under section 117(2E) of the Mental Health Act 1983, to be read as references to the National Health Service Commissioning Board.”

324 Page 325, line 27, at end insert –

“Health and Safety at Work etc. Act 1974 (c. 37)

- (1) Section 60 of the Health and Safety at Work etc. Act 1974 (supplementary provision about the Employment Medical Advisory Service) is amended as follows.
- (2) In subsection (1) for “each Primary Care Trust and Local Health Board” substitute “the National Health Service Commissioning Board or each clinical commissioning group (in relation to England) and each Local Health Board (in relation to Wales)”.
- (3) In subsection (2) –
 - (a) omit “for one of their”, and
 - (b) for ““each” to “its”” substitute ““the National” to “arranges””.

325 Page 326, line 42, leave out “paragraphs 46 and 49” and insert “paragraph 46”

326 Page 327, line 27, after “(1)” insert “–

- (a) omit paragraph 49 of Schedule 2 to the National Health Service Reform and Health Care Professions Act 2002, and
- (b) ”

327 Page 331, line 34, at end insert –

“Local Government and Housing Act 1989 (c. 42)

In section 2 of the Local Government and Housing Act 1989 (politically restricted posts), in subsection (6), after paragraph (za) insert –

“(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;”.

328 Page 333, line 5, at end insert –

- “() in that paragraph, after “or” (in the first place it occurs) insert “a”,
- () in the words after paragraph (b) in that subsection, omit “authority or”;

329 Page 333, line 14, at end insert “, and

- () in the words after that paragraph, omit “Trust, Authority or.”

330 Page 333, leave out lines 15 to 32

331 Page 334, line 14, leave out paragraph 70

332 Page 340, line 26, leave out “Minister” substitute “the Welsh Ministers” and insert “Minister considers” substitute “the Welsh Ministers consider”

333 Page 340, line 31, at end insert –

“ () The Licensing Act 2003 is amended as follows.

() In section 5(3) (statement of licensing policy) –

- (a) in paragraph (ba) omit “Primary Care Trust or”, and
- (b) after that paragraph insert –

“(bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable

in respect of an area any part of which is in the licensing authority's area,".

- () In section 13(4) (authorised persons, interested parties and responsible authorities) –
 - (a) in paragraph (ba) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert –
 - “(bb) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of any area in which the premises are situated,”.

334 Page 340, line 33, at end insert –

- “ () In section 69(4) (authorised persons, interested parties and responsible authorities) –
 - (a) in paragraph (ba) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert –
 - “(bb) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of any area in which the premises are situated,”.
- () In section 172B(4) (procedural requirements for early morning alcohol restriction order) –
 - (a) in paragraph (d) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert –
 - “(da) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the area specified in the order,”.

335 Page 341, line 5, leave out paragraph 114

336 Page 346, line 36, after second “under” insert “section 12A or”

337 Page 347, line 2, leave out paragraph 142

338 Page 347, line 7, leave out paragraph 144

339 Page 351, line 2, at beginning insert “In section 123 of”

340 Page 351, line 2, leave out from “2009” to “(partner” in line 18

341 Page 353, line 24, at end insert –

“Charities Act 2011 (c. 25)

In section 149 of the Charities Act 2011 (audit or examination of English NHS charity accounts), in subsection (7) –

- (a) omit paragraph (a),
- (b) omit paragraph (b),
- (c) before paragraph (c) insert –
 - “(ba) the National Health Service Commissioning Board,

- (bb) a clinical commissioning group,
- (bc) trustees for the National Health Service Commissioning Board appointed in pursuance of paragraph 11 of Schedule A1 to the National Health Service Act 2006, or
- (bd) trustees for a clinical commissioning group appointed in pursuance of paragraph 14 of Schedule 1A to that Act,” and
- (d) omit paragraph (f).”

Schedule 6

342 Page 355, line 13, at end insert—

- “() The amendment made by section 18(6) does not affect—
- (a) the validity of any direction made by an instrument in writing which continues to have effect by virtue of sub-paragraph (2),
 - (b) any power to vary such a direction otherwise than for the purpose of directing the Special Health Authority concerned to exercise an additional function, or
 - (c) any power to revoke such a direction.”

Schedule 8

343 Page 367, line 17, after “functions” insert “,

- (b) include a statement of what it did to comply with the duty under section (*Secretary of State’s guidance on duty under section 61(9)*)(2) (duty to have regard to Secretary of State’s guidance on duty under section 61(9)), and
- (c) include a statement of what it did to comply with the duty under section 64(1)(ja) (duty to have regard to Secretary of State’s guidance on relevant parts of document on improving quality of services).”

Schedule 9

344 Page 368, line 12, leave out from “contains” to the end of line 14 and insert “information which it is satisfied is—

- (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of the person to whom it relates;
- (b) information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm that person’s interests.”

Schedule 10

345 Page 372, line 26, after “are” insert “not”

346 Page 373, line 26, after “considers” insert “would or”

347 Page 373, line 29, after “considers” insert “would or”

Schedule 11

- 348** Page 378, line 35, leave out from “contains” to the end of line 37 and insert “information which it is satisfied is—
- (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of the person to whom it relates;
 - (b) information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm that person’s interests.”

Schedule 12

- 349** Page 380, line 5, leave out from “each” to end of line 6 and insert “objector”
- 350** Page 380, line 7, at end insert—
- “() In this Schedule, “objector” means—
 - (a) in relation to a reference made where the condition in section 118(2)(a) is not met, each clinical commissioning group who objected to the proposed method to which the reference relates, and
 - (b) in relation to a reference made where the condition in section 118(2)(b) or (c) is not met, each relevant provider who objected to that proposed method.”
- 351** Page 382, line 8, at end insert—
- “() The Competition Commission must give notice to each objector who has made representations in accordance with paragraph 2 of the time and place at which an oral hearing is to be held.”
- 352** Page 382, line 22, leave out “entitled to give evidence at the hearing” and insert “present at the hearing and comes within sub-paragraph (5)”
- 353** Page 382, line 24, leave out second “is not” and insert “cannot be”
- 354** Page 382, line 26, leave out from “not” to “, and” in line 27 and insert “obliged to require the person to attend the hearing”

Schedule 14

- 355** Page 388, line 10, at end insert “, and
- () in subsection (3), omit paragraph (a) (and the following “and”)
- 356** Page 388, line 13, after “trust” insert “established under section 25”
- 357** Page 388, line 14, after “trust” insert “established under section 25”
- 358** Page 391, line 3, leave out “section 78” and insert “sections 78 and 79”
- 359** Page 391, line 18, leave out sub-paragraph (2)
- 360** Page 394, line 7, leave out paragraph 64
- 361** Page 394, line 11, leave out paragraphs 65 to 67
- 362** Page 397, line 18, at end insert “, and
- () omit sub-paragraph (ii) of that paragraph (and the preceding “or”)

- 363 Page 398, line 21, after “body” insert “ –
(a) ”
- 364 Page 398, line 21, at end insert “, and
(b) in paragraph (c), for “that Act” substitute “the National Health Service Act 2006” (and omit the “or” preceding that paragraph)”

- 365 Page 399, line 8, at end insert –

“Charities Act 2011 (c. 25)

The Charities Act 2011 is amended as follows.

In section 149 (audit or examination of English NHS charity accounts), in subsection (7), omit paragraphs (c), (d) and (e).

In section 150 (audit or examination of Welsh NHS charity accounts), in subsection (4) –

- (a) in paragraph (b), omit the words from “all or most” to the end,
- (b) in paragraph (c), omit “falling within paragraph (b)”, and
- (c) in paragraph (d), omit “such”.

Schedule 15

- 366 Leave out Schedule 15

Schedule 18

- 367 Page 420, leave out lines 22 to 26

Schedule 19

- 368 Page 423, line 23, leave out “the exercise of its functions” and insert “any function exercisable by it to be exercised”

Schedule 20

- 369 Page 427, line 16, at end insert –

“Health and Social Care Act 2008 (c. 14)

In section 64 of the Health and Social Care Act 2008 (power of the Care Quality Commission to require documents and information etc. from certain persons) in subsection (2) –

- (a) omit the “or” after paragraph (d), and
- (b) after paragraph (e) insert “, or
(f) the Health and Social Care Information Centre.”

- 370 Page 427, leave out lines 27 to 31

Schedule 23

- 371 Page 443, line 14, at end insert –

“The Special Health Authority known as the NHS Business Services Authority	The Health and Social Care Information Centre”
--	---

372 Page 443, line 30, second column, at end insert –

	“The Health and Social Care Information Centre”
--	--

Schedule 24

373 Page 445, line 11, at end insert –

“The Special Health Authority known as the NHS Business Services Authority	The Health and Social Care Information Centre”
--	---

374 Page 445, line 29, second column, at end insert –

	“The Health and Social Care Information Centre”
--	--

LORDS AMENDMENTS TO THE
HEALTH AND SOCIAL CARE BILL

*Ordered, by The House of Commons,
to be Printed, 19 March 2012.*

© Parliamentary copyright House of Commons 2012

*This publication may be reproduced under the terms of the Parliamentary Click-Use Licence, available online
through The National Archives website at*

www.nationalarchives.gov.uk/information-management/our-services/parliamentary-licence-information.htm

Enquiries to The National Archives, Kew, Richmond, Surrey, TW9 4DU;

email: psi@nationalarchives.gsi.gov.uk

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

Printed in the United Kingdom by The Stationery Office Limited

£x.xx