

Access to Fertility Services Bill

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Make provision about access to NHS fertility services, including equality of access to such services across England; to make provision about pricing of such services; to provide for a minimum number of fertility treatments to be available to women on the basis of their age; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Duty of Secretary of State to provide for equal access to NHS fertility services

The Secretary of State shall have a duty to provide for equality of access and eligibility in relation to National Health Service (“NHS”) fertility services for women across all areas of England.

2 Discharge of section 1 duty: national standards for fertility treatment provision 5

(1) In accordance with the duty in section 1 the Secretary of State shall by regulations make provision about eligibility for fertility treatment across England.

(2) Those regulations must include provision for— 10

- (a) the eligibility of women for treatment,
- (b) the types of treatment to be available, and
- (c) the number of instances of those treatments to be available.

(3) In making provision under subsections (1) and (2), the Secretary of State— 15

- (a) shall follow—
 - (i) Clinical Guideline (CG156) “Fertility problems: assessment and treatment”, as amended; and
 - (ii) Quality Standard (SQ73) “Fertility Problems” produced by the National Institute for Health and Care Excellence,
- (b) shall exclude the use of eligibility criteria based on non-clinical factors relating to either partner, and 20

- (c) may consult with such persons and organisations as appears to the Secretary of State to be appropriate.
- (4) If the treatments to be provided under subsection (1) are materially different to the treatments indicated in the clinical guidance cited in subsection (3)(a), the Secretary of State shall publish the reasons for doing this. 5
- 3 Discharge of section 1 duty: national tariff**
- The Secretary of State shall by regulations bring the pricing of NHS fertility services in England under the national tariff as set out in section 116 of the Health and Social Care Act 2012.
- 4 Regulations** 10
- (1) Any power to make regulations under sections 2 and 3—
- (a) must be used with 18 months of this Act coming into force;
 - (b) is exercisable by statutory instrument;
 - (c) includes power to make different provision for different purposes;
 - (d) includes power to make supplementary, incidental, transitional transitory and saving provision. 15
- (2) A statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- 5 Equality of access to fertility services direction: NICE** 20
- (1) The Secretary of State may give a direction to the National Institute for Health and Care Excellence (NICE) if the Secretary of State considers that NICE is discharging any of its functions in such a way as to prevent or inhibit equitable—
- (a) access to, or 25
 - (b) provision of
- NHS fertility services for the purposes of this Act.
- (2) A direction under subsection (1) may direct NICE to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction. 30
- (3) If NICE fails to comply with a direction under subsection (1), the Secretary of State may—
- (a) discharge the functions to which the direction relates, or
 - (b) make arrangements for any other person to discharge them on behalf of the Secretary of State. 35
- (4) Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State shall publish reasons for doing so.
- 6 Equality of access to fertility services direction: NHS Improvement**
- (1) The Secretary of State may give a direction to NHS Improvement if the Secretary of State considers that NHS Improvement is discharging any of its functions in such a way as to prevent or inhibit equitable— 40

- (a) access to; or
- (b) provision of;

NHS fertility services for the purposes of this Act.

- (2) A direction under subsection (1) may direct NHS Improvement to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction. 5
- (3) If NHS Improvement fails to comply with a direction under subsection (1), the Secretary of State may –
 - (a) discharge the functions to which the direction relates, or
 - (b) make arrangements for any other person to discharge them on behalf of the Secretary of State. 10
- (4) Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State shall publish reasons for doing so.
- (5) For the purposes of this section the functions of NHS Improvement include all the functions conferred on Monitor by the Health and Social Care Act 2012. 15

7 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force on the day after the day on which it is passed.
- (3) This Act may be cited as the Access to Fertility Services Act 2019.

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To make provision about access to NHS fertility services, including equality of access to such services across England; to make provision about pricing of such services; to provide for a minimum number of fertility treatments to be available to women on the basis of their age; and for connected purposes.

*Ordered to be brought in by Steve McCabe,
Kate Green, Paula Sherriff,
Joan Ryan, Ann Coffey,
Mr Edward Vaizey, Tom Brake,
Layla Moran, Jim Shannon,
Andrew Selous and Will Quince.*

*Ordered, by The House of Commons,
to be Printed, 18th April 2018.*

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