
Lords Amendments: Wednesday 30 March 2022

Health and Care Bill

(Motions relating to Lords Amendments)

This document should be read alongside the amendments the Lords have made to this Bill and the Speaker's provisional selection and grouping.

This paper sets out any motions to disagree, change or comment on amendments proposed by the Lords.

The motions are arranged in the order in which it is expected they will be decided.

New Amendments: LA92 (a), LA48 (b)

On Consideration of Lords Amendments to the Health and Care Bill

Lords Amendments 91, 85 to 88, 92, 95, 52 to 54, 66 to 79, 82, 84, 93, 94, 96 to 101, 109 to 129

Lords Amendment No. **91**

Edward Argar

As an Amendment to the Lords Amendment:—

Line 2, leave out subsections (1) to (6) and insert—

(a)

“(1) The Health and Social Care Act 2008 is amended in accordance with subsections (2) to (6).

(2) In section 20 (regulation of regulated activities), after subsection (5) insert—

“(5ZA) Regulations under this section must require service providers to ensure that each person working for the purpose of the regulated activities carried on by them receives training on learning disability and autism which is appropriate to the person's role.”

(3) After subsection (5C) (as inserted by section 145) insert—

“(5D) In subsection (5ZA)—

“learning disability” has the meaning given by section 1(4) of the Mental Health Act 1983;

“service provider” means a person registered under this Chapter as a service provider in respect of a regulated activity.”

- (4) After section 21 insert—
- “21A Learning disability and autism training: code of practice**
- (1) The Secretary of State must issue a code of practice about compliance with requirements imposed by virtue of section 20(5ZA) (requirements relating to training on learning disability and autism).
- (2) The code must make provision about—
- (a) the content of training;
 - (b) training appropriate to different roles;
 - (c) circumstances in which it is appropriate for training to be delivered in person;
 - (d) the involvement of people with learning disability, autistic people, or their carers, in the provision of training;
 - (e) accreditation of training;
 - (f) procurement of training;
 - (g) monitoring and evaluation of the impact of training;
- (3) The code may make different provision for different cases or circumstances.
- (4) The Secretary of State must, at least once every five years—
- (a) review the code, and
 - (b) lay before Parliament a report setting out the findings of the review.”
- (5) In section 22 (consultation in relation to code of practice under section 21)—
- (a) for the heading substitute “Codes of practice: consultation and Parliamentary scrutiny”;
 - (b) in subsection (1), after “21” insert “or 21A”;
 - (c) in subsection (2), after “21” insert “or 21A”;
 - (d) in subsection (3), after “(2)” insert “in relation to a draft of a code or revised code under section 21”;
 - (e) after subsection (5) insert—
- “(5A) Where, following consultation under subsection (1) or (2) in relation to a draft of a code or revised code under section 21A, the Secretary of State decides to proceed with the draft (in its original form or with modifications), the Secretary of State must lay a copy of the draft before Parliament.
- (5B) The Secretary of State may not issue the code or revised code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (5C) In this section “40-day period” means—
- (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or

- (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (5D) For the purposes of subsection (5C), no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.”
- (6) In section 25 (effect of code under section 21 and guidance under section 23)—
 - (a) in the heading, after “s. 21” insert “or 21A”;
 - (b) in subsection (1), for “A code of practice under section 21” substitute “Codes of practice under sections 21 and 21A”;
 - (c) in subsection (2),
 - (i) for “A code of practice under section 21 or” substitute “Codes of practice under sections 21 and 21A and”;
 - (ii) for “is” substitute “are”;
 - (d) in subsection (3), after “21” insert “or 21A”.
- (7) Until the first regulations made by virtue of section 20(5ZA) of the Health and Social Care Act 2008 (as inserted by subsection (2)) come into force—
 - (a) the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936) (“the 2014 regulations”), and
 - (b) the Health and Social Care Act 2008,are to be read as if regulation 18 of the 2014 regulations contained such requirements.”

Lords Amendment No. **85**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **86**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **87**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **88**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **92**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 127, line 39, at end insert the following new Clause—

(a)

“Early medical termination of pregnancy

- (1) Section 1 of the Abortion Act 1967 is amended as follows.
- (2) In subsection (3), for “subsection” substitute “subsections (3B) to”.
- (3) In subsection (3A)—
 - (a) the words from “includes” to the end become paragraph (a);
 - (b) after that paragraph insert—
 - “(b) is not limited by subsections (3C) and (3D).”

(4) After subsection (3A) insert—

“(3B) Subsections (3C) and (3D) apply where—

- (a) the treatment referred to in subsection (3) consists of the prescription and administration of medicine, and
- (b) the registered medical practitioner terminating the pregnancy is of the opinion, formed in good faith, that, if the medicine is administered in accordance with their instructions, the pregnancy will not exceed ten weeks at the time when the medicine is administered (or in the case of a course of medicine, when the first medicine in the course is administered).

(3C) If the usual place of residence of the registered medical practitioner terminating the pregnancy is in England or Wales, the medicine may be prescribed from that place by the registered medical practitioner.

(3D) If the pregnant woman’s usual place of residence is in England or Wales and she has had a consultation (in person, by telephone or by electronic means) with a registered medical practitioner, registered nurse or registered midwife about the termination of the pregnancy, the medicine may be self-administered by the pregnant woman at that place.””

Lords Amendment No. 95

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 112, line 27, leave out paragraphs (c) and (d) and insert—

(a)

“(c) for subsection (4) substitute—

“(4) A statutory instrument containing regulations under this Act may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”;

(d) omit subsection (5);

(e) after subsection (5) insert—

- “(5A) Regulations made by the Scottish Ministers under section 2A are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (5B) A statutory instrument containing regulations under section 2A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
- (5C) Regulations may not be made by a Northern Ireland department under section 2A unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.””
-

Lords Amendment No. **123**

Greg Smith

As an Amendment to the Lords Amendment:—

Line 3, leave out from “effect” to the end of line 4 and insert “no earlier than one year after the publication by OFCOM of guidance on the standards set under subsection (1).”^(a)

Lords Amendment No. **124**

Greg Smith

As an Amendment to the Lords Amendment:—

Line 4, at end insert “provided that any such date falls no earlier than one year after the publication by OFCOM of guidance on the standards set under subsection (1).”^(a)

Lords Amendment No. **125**

Greg Smith

As an Amendment to the Lords Amendment:—

Line 2, leave out “the beginning of 1 January 2023” and insert “a date no earlier than ^(a) one year after the publication by OFCOM of guidance on the application of this section.”

Lords Amendment No. **126**

Greg Smith

As an Amendment to the Lords Amendment:—

Line 4, at end insert “provided that any such date falls no earlier than one year after the ^(a) publication by OFCOM of guidance on the application of this section.”

Lords Amendment No. **127**

Greg Smith

As an Amendment to the Lords Amendment:—

Line 1, leave out “the beginning of 1 January 2023” and insert “a date no earlier than ^(a) one year after the publication by OFCOM of guidance on the application of this section.”

Lords Amendments 29, 30, 48, 57, 89, 108, 42 to 47, 55, 56, 58 to 64

Lords Amendment No. **29**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **30**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **48**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 49, line 3, at end insert the following new Clause—

(a)

“Review into NHS supply chains

- (1) The Secretary of State must carry out a review into the risk of slavery and human trafficking taking place in relation to people involved in NHS supply chains.
- (2) The Secretary of State may determine which NHS supply chains to consider as part of the review or otherwise limit the scope of the review.
- (3) But the review must at least consider a significant proportion of NHS supply chains for cotton-based products in relation to which companies formed under section 223 of the National Health Service Act 2006 (taken as a whole) exercise functions.
- (4) The Secretary of State must publish and lay before Parliament a report on the outcome of the review before the end of the period of 18 months beginning with the day on which this section comes into force.
- (5) The report must describe—
 - (a) the scope of the review, and

- (b) the methodology used in carrying out the review.
- (6) The report must include any views of the Secretary of State as to steps that should be taken to mitigate the risk mentioned in subsection (1).
- (7) NHS England must assist in the carrying out of the review or the preparation of the report under this section, if requested to do so by the Secretary of State.
- (8) In this section—

“health service in England” means the health service continued under section 1(1) of the National Health Service Act 2006;

“NHS supply chain” means the supply chain for providing goods or services for the purposes of the health service in England;

“slavery and human trafficking” has the meaning given by section 54(12) of the Modern Slavery Act 2015.”

Sir Iain Duncan Smith
 Jeremy Hunt
 Damian Green
 Sir Robert Buckland
 Ms Nusrat Ghani
 Tim Loughton
 Bob Blackman
 James Gray
 Dr Julian Lewis
 Karen Bradley
 Andrew Lewer

Sally-Ann Hart
 Mr Philip Hollobone
 Richard Drax
 Tom Tugendhat
 Mr Andrew Mitchell

Craig Mackinlay
 Mrs Pauline Latham
 John Redwood
 Alicia Kearns

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 49, line 3, at end insert the following new Clause—

(b)

“Health service procurement and supply chains: modern slavery

- (1) The Secretary of State must by regulations make provision for the purposes of ensuring that procurement of all goods and services for the purposes of the health service in England avoids modern slavery.
- (2) Regulations under section (1) must be consistent with the United Kingdom’s obligations to prevent and punish acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such, including—
- (a) causing serious bodily or mental harm to members of the group;
 or
- (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”

Lords Amendment No. **57**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **89**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 123, line 35, at end insert the following new Clause—

(a)

“Commercial dealings in organs for transplantation: extra-territorial offences

(1) After section 32 of the Human Tissue Act 2004 insert—

“32A Offences under section 32 committed outside UK

(1) If—

- (a) a person who is habitually resident in England and Wales, or who is a UK national and not habitually resident in Northern Ireland, does an act outside the United Kingdom,
- (b) the act, if done in England and Wales, would constitute an offence under section 32(1), and
- (c) the controlled material to which the act relates is controlled material consisting of or including a human organ, the person is guilty in England and Wales of that offence.

(2) In this section “United Kingdom national” means an individual who is—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person within the meaning of that Act.”

(2) After section 20 of the Human Tissue (Scotland) Act 2006 insert—

“20A Offences under section 20 committed outside UK

(1) If—

- (a) a person who is habitually resident in Scotland, or who is a UK national and not habitually resident in Northern Ireland, does an act outside the United Kingdom, and
 - (b) the act, if done in Scotland, would constitute an offence under section 20(1), and
 - (c) the part of the human body to which the act relates consists of or includes a human organ,
the person is guilty in Scotland of that offence.
- (2) In this section “United Kingdom national” means an individual who is—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.
- (3) Where a person outside the United Kingdom commits an offence under section 20(1) the person may be prosecuted, tried and punished for the offence—
- (a) in a sheriff court district in which the person is apprehended or in custody, or
 - (b) in a sheriff court district determined by the Lord Advocate, as if the offence had been committed in that district.
- (4) Where subsection (3) applies, the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district.
- (5) In this section “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation).”

Lords Amendment No. **108**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendments 11, 51, 80, 81, 90, 105, 1 to 10, 12 to 28, 31 to 41, 49, 50, 65, 83, 102 to 104, 106, 107

Lords Amendment No. **11**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 138, line 35, at end insert—

(a)

- “(4) If the constitution includes provision under this paragraph allowing committees or sub-committees to exercise commissioning functions, the constitution must—
- (a) provide for the members of any such committee or sub-committee to be approved or appointed by the chair of the integrated care board, and
 - (b) prohibit the chair from approving or appointing someone as a member of any such committee or sub-committee (“the candidate”) if the chair considers that the appointment could reasonably be regarded as undermining the independence of the health service because of the candidate’s involvement with the private healthcare sector or otherwise.
- (5) In sub-paragraph (4) “commissioning functions” means the functions of an integrated care board in arranging for the provision of services as part of the health service.”

Lords Amendment No. 51

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 70, line 20, leave out “omit section 74 and” and insert—

(a)

“(a) for section 74 substitute—

“74 Discharge of hospital patients with care and support needs

- (1) Where a relevant trust is responsible for an adult hospital patient and considers that the patient is likely to require care and support following discharge from hospital, the relevant trust must, as soon as is feasible after it begins making any plans relating to the discharge, take any steps that it considers appropriate to involve—
- (a) the patient, and

(b) any carer of the patient.

(2) In performing the duty under subsection (1), a relevant trust must have regard to any guidance issued by NHS England.

(3) For the purposes of this section, a relevant trust is responsible for a hospital patient if the relevant trust manages the hospital.

(4) In this section—

“adult” means a person aged 18 or over;

“carer” means an individual who provides or intends to provide care for an adult, otherwise than by virtue of a contract or as voluntary work;

“relevant trust” means—

(a) an NHS trust established under section 25 of the National Health Service Act 2006, or

(b) an NHS foundation trust.”;

(b) omit”.

Lords Amendment No. **80**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendments to the Bill in lieu of the Lords Amendment:—

Page 116, line 41, leave out from beginning to end of line 9 on page 117 and insert—^(a)

“(a) in relation to eligible needs met by a local authority, to any amount the local authority charged the adult under section 14(1)(a) or 48(5) for meeting those needs;

(b) in relation to eligible needs met by a person other than a local authority, to what the cost of meeting those eligible needs would have been to the local authority that was the responsible local authority when the needs were met.”

Page 117, leave out lines 13 and 14 and insert “at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult”^(b)

Page 117, line 25, after “Where” insert “, following a determination under section 13(1),”^(c)

- Page 117, leave out lines 30 to 32 and insert— (d)
- “(b) the adult has at any time either—
 - (i) asked a local authority that was, at that time, the responsible local authority, to prepare an independent personal budget, or
 - (ii) had needs met by a local authority as mentioned in section 24(1).”
- Page 117, leave out lines 37 to 42 and insert— (e)
- “(a) the current cost to the local authority of meeting those needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and
 - (c) the balance, if any, of the cost referred to in paragraph (a).”
- Page 117, leave out lines 45 to 48 and insert— (f)
- “(a) the current cost to the local authority of meeting those eligible needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and”
- Page 118, line 3, after “adult” insert “has needs which a local authority is required or decides to meet as mentioned in section 24(1) and” (g)
- Page 118, leave out lines 5 and 6 and insert— (h)
- “(a) what the current cost would be to the responsible local authority of meeting those eligible needs, and”
- Page 118, leave out lines 9 to 13 (i)
- Page 118, line 17, leave out from beginning to “(but” in line 18 and insert “what the current cost would be to the responsible local authority of meeting the adult’s eligible needs” (j)
- Page 118, line 21, after “authority” insert “or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)” (k)
- Page 118, line 22, leave out paragraph (b) (l)
- Page 118, line 32, leave out subsections (7) and (8) and insert— (m)

- “(7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
- “(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”
- (8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
- “(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

Page 129, line 14, at end insert—

(n)

- “(5A) In relation to section (cap on care costs for charging purposes), different days may be appointed under subsection (4) for different areas.”

Lords Amendment No. **81**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **90**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 127, line 39, at end insert the following new Clause—

(a)

“Review into disputes relating to treatment of critically ill children

- (1) The Secretary of State must arrange for the carrying out of a review into the causes of disputes between (on the one hand) persons with parental responsibility for a critically ill child and (on the other) persons responsible for the provision of care or medical treatment for the child as part of the health service in England.
- (2) The Secretary of State must publish and lay before Parliament a report on the outcome of the review, within one year beginning with the date on which this section comes into force.

(3) In this section—

“child” means a person aged under 18;

“health service in England” means the health service continued under section 1(1) of the National Health Service Act 2006;

“parental responsibility” has the meaning given by section 3 of the Children Act 1989.”

Lords Amendment No. **105**

Edward Argar

To move, That this House disagrees with the Lords in their Amendment.

Edward Argar

To move the following Amendment to the Bill in lieu of the Lords Amendment:—

Page 137, line 41, at end insert—

(a)

“(5A) The chair must exercise the approval function mentioned in subparagraph (1)(b) with a view to ensuring that at least one of the ordinary members has knowledge and experience in connection with services relating to the prevention, diagnosis and treatment of mental illness.”

Health and Care Bill: Programme (No. 3)

Secretary Sajid Javid

That the following provisions shall apply to the Health and Care Bill for the purpose of supplementing the Orders of 14 July 2021 (Health and Care Bill (Programme)) and 22 November 2021 (Health and Care Bill (Programme) (No. 2)):

Consideration of Lords Amendments

1. Proceedings on consideration of Lords Amendments shall (so far as not previously concluded) be brought to a conclusion six hours after their commencement.
2. The proceedings—
 - (a) shall be taken in the order shown in the first column of the following Table, and
 - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Lords Amendments

91, 85 to 88, 92, 95, 52 to 54, 66 to 79, 82, 84, 93, 94, 96 to 101, 109 to 129

Time for conclusion of proceedings

Two hours after the commencement of proceedings on consideration of Lords Amendments

29, 30, 48, 57, 89, 108, 42 to 47, 55, 56, 58 to 64

Four hours after the commencement of those proceedings

11, 51, 80, 81, 90, 105, 1 to 10, 12 to 28, 31 to 41, 49, 50, 65, 83, 102 to 104, 106, 107

Six hours after the commencement of those proceedings

Subsequent stages

3. Any further Message from the Lords may be considered forthwith without any Question being put.
4. The proceedings on any further Message from the Lords shall (so far as not previously concluded) be brought to a conclusion one hour after their commencement.

Notices Withdrawn

The following notices were withdrawn on 29 March 2022:

LA66 and LA109
