

# National Health Service (Amended Duties and Powers) Bill [HL]

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Lord Owen, are published separately as HL Bill 80 – EN.



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**B I L L**

TO

Re-establish the Secretary of State's legal duty as to the National Health Service in England, Quangos and related bodies.

**B**E 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 Secretary of State's duties to promote and provide a comprehensive and integrated health service**

For section 1 of the National Health Service Act 2006 (Secretary of State's duty to promote comprehensive health service) substitute—

**"1 Secretary of State's duty as to the health service**

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(1) It shall be the duty of the Secretary of State to promote in England a comprehensive and integrated health service designed to secure improvement—

- (a) in the physical and mental health of the people of England, and  
(b) in the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with this Act.

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(2) The services so provided must be free of charge except in so far as the making and recovery of charges is expressly provided for, by or under any enactment, whenever passed.

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(3) The services provided pursuant to this Act and to the Health and Social Care Act 2012, howsoever or by whom so ever provided, secured or arranged, shall be deemed to be provided in furtherance of the duty to provide or secure effective provision of services under subsection (1)."

**2 Abolition of the duties of autonomy**

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Sections 1D and 13F of the National Health Service Act 2006 (duties as to promoting autonomy) are repealed.

### 3 Concurrent duty of and commissioning by the NHS Commissioning Board

- (1) Section 1H(2) of the National Health Service Act 2006 is repealed.
- (2) In section 1H(3) of that Act, for “For the purpose of discharging that duty,” substitute “For the purpose of furthering the duty of the Secretary of State under section 1(1),”.

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### 4 Secretary of State’s duty as to provision of certain services

- (1) Section 3 of the National Health Service Act 2006 is amended as follows.
- (2) Before subsection (1) insert—
  - “(Z1) The Secretary of State must provide or secure the effective provision throughout England, to such extent as he considers necessary to meet all reasonable requirements, the accommodation, services and facilities set out in subsection (1)(a) to (f).”
- (3) In subsection (1), before “A” insert “For that purpose,”.

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### 5 Power of directions to Quangos and other bodies

- (1) The Secretary of State may direct any of the bodies mentioned in subsection (2) to exercise any of his functions relating to the health service which are specified in the directions, and may also give directions to any such body about its exercise of any functions or about its provision of services under arrangements referred to in subsection (2)(h). 15
- (2) The bodies are— 20
  - (a) the National Health Service Commissioning Board,
  - (b) a clinical commissioning group,
  - (c) a Special Health Authority,
  - (d) an NHS trust,
  - (e) an NHS foundation trust, 25
  - (f) the National Institute for Health and Care Excellence,
  - (g) the Health and Social Care Information Centre, and
  - (h) any other body or person providing services in pursuance of arrangements made—
    - (i) by the Secretary of State under section 12 of, 30
    - (ii) by the Board or a clinical commissioning group under section 3, 3A, 3B, 4 of or Schedule 1 to,
    - (iii) by a local authority for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) of or Schedule 1 to, or 35
    - (iv) by the Board, a clinical commissioning group or a local authority by virtue of section 7A of, 35
- (3) In exercising his power under subsection (1), the Secretary of State must have regard to the desirability, so far as consistent with the interests of the health service and relevant to the exercise of the power in all circumstances— 40
  - (a) of protecting and promoting the health of patients and the public;
  - (b) of any bodies mentioned in subsection (2) being free, in exercising its functions or providing services in accordance with its duties and

- powers, to do so in the manner that it considers best calculated to promote the comprehensive and integrated service referred to in section 1(1) of the National Health Service Act 2006; and
- (c) of ensuring co-operation between the bodies mentioned in subsection (2) in the exercise of their functions or provision of services. 5
- (4) If, in having regard to the desirability of the matters referred to in subsection (3) the Secretary of State considers that there is a conflict between those matters and the discharge of his duties under section 1 of the National Health Service Act 2006, he must give priority to the duties under that section.
- 6 Monitor** 10
- (1) The Health and Social Care Act 2012 is amended as follows.
- (2) After section 61 insert—
- “61A Monitor’s objective**
- (1) The objective of Monitor is to contribute to the achievement of a comprehensive and integrated health service in England through the exercise of its functions. 15
- (2) In exercising its main duty and other functions Monitor must act in accordance with that objective and in a manner consistent with the performance by the Secretary of State of his duties contained in sections 1 and 3 of the National Health Service Act 2006.” 20
- (3) Section 62(9) is repealed.
- 7 Interpretation**
- Expressions used in this Act which are also used in the National Health Service Act 2006 and in the Health and Social Care Act 2012 shall have the same meanings as the meanings given to those expressions under those Acts. 25
- 8 Short title, commencement and extent**
- (1) This Act may be cited as the National Health Service (Amended Duties and Powers) Act 2013.
- (2) This Act shall come into force on the day on which it is passed.
- (3) This Act extends to England. 30

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*Lord Owen*

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