

# Health and Social Care Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

**Clause 111**

EARL HOWE

- 1** Page 119, line 19, 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.”

**Clause 111**

EARL HOWE

- 2** Page 119, line 28, leave out from “notice” to end of line 32 and insert “require the trust to –”

**Clause 111**

EARL HOWE

- 3** Page 119, line 39, leave out from “has” to end of line 43 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.”

**Clause 111**

EARL HOWE

- 4 Page 120, line 1, leave out from “exercising” to end of line 3 and insert “in relation to a condition included in a licence under subsection (1) the powers conferred by sections 105 and 106 (breach of licence condition etc: enforcement powers which apply during and after period in which this section and sections 112 to 114 have effect).”

**Clause 112**

EARL HOWE

- 5 Page 120, line 20, leave out subsections (1) to (6) and insert –
- “(1) Section 111 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.”

**Clause 112**

EARL HOWE

- 6 Page 121, line 11, leave out paragraph (a)

**Clause 113**

EARL HOWE

- 7 Page 121, line 22, leave out from “112” to “, the” in line 23

**Clause 113**

EARL HOWE

- 8 Page 121, line 42, 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 114**

EARL HOWE

- 9 Page 122, line 32, leave out paragraph (e)

**Clause 163**

EARL HOWE

- 10 Page 159, line 42, at end insert—  
“( ) for “The” substitute “An”,”

**Clause 163**

EARL HOWE

- 11 Page 160, line 8, after “purposes.” insert—
- “(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 300**

EARL HOWE

- 12 Page 269, line 33, leave out paragraph (e)

**Clause 300**

EARL HOWE

**13** Page 270, line 45, leave out subsection (11)