



Department
of Health

Post-legislative assessment of the Health and Social Care Act 2012

Memorandum to the House of Commons
Health Select Committee



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Health Select Committee

Presented to Parliament
by the Secretary of State for Health
by Command of Her Majesty

July 2014



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Introduction and Summary

1. This memorandum provides an assessment of the Health and Social Care Act 2012 (the 2012 Act). It has been prepared by the Department of Health for submission to the Health Committee of the House of Commons. In line with an undertaking to Parliament during passage of the Act,¹ it has been produced within three years of Royal Assent, which was given on 27 March 2012. It does not cover aspects of the Act that are within the legislative competence of the devolved administrations.

OBJECTIVES

2. The Act falls into twelve parts and is mostly concerned with the NHS in England. Its main aims were:

- to change how NHS care is commissioned through the greater involvement of clinicians and a new NHS Commissioning Board;
- to improve accountability and patient voice;
- to give NHS providers new freedoms to improve quality of care;
- to establish a provider regulator (Monitor) to promote economic, efficient and effective provision;
- to underpin the creation of Public Health England; and
- to take forward measures to reform health public bodies.

By streamlining administration of the system, the Act aimed to release money for frontline care.

IMPLEMENTATION

3. Details of the commencement dates set so far are given in Annex A. Most of the provisions in the Act came fully into force on 1 April 2013.

4. Some provisions were commenced earlier, from dates between 1 June 2012 and 1 February 2013, chiefly to allow preparatory steps to be undertaken before 1 April 2013.

5. Some further provisions, relating to licensing and pricing of health services (Chapters 3 and 4 of Part 3 of the Act), came into force on 1 April 2014.

6. Some provisions have not been commenced, the main ones being those:

- creating a special administration regime for companies providing health services (Part 3, chapters 5 and 6);
- repealing legislation on NHS Trusts (Part 4); and
- changing funding arrangements for the Professional Standards Authority (Part 7).

Fuller details of uncommenced provisions are provided in the implementation sections of subsequent chapters.

OVERALL ASSESSMENT

7. The Act has achieved most of its objectives, in particular by putting in place

¹ Lords Hansard, 21 December 2011, column 1820.

new structures for the NHS in England. Over time, the Department expects to see the bodies that play a part in the new system mature, particularly as relationships between them and with patients and providers grow deeper. A statement was made on 18 July 2013 about the costs and benefits of the reforms.² Figures for 2013-14 will be available at the time of the publication of the Department of Health's accounts.

THE REST OF THIS MEMORANDUM

8. The rest of this memorandum considers each Part of the Act in more detail, with information about:

- key uses of delegated powers (for example to make secondary legislation or to issue guidance) created by the Act.
- legal issues that have arisen in relation to the Act, and other reviews of implementation of the Act, where the Department of Health is aware of them.

² <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130718/wmstext/130718m0001.htm#13071861000167>

Part 1: The Health Service in England

OBJECTIVES

1.1 The main objectives of Part 1 of the Act were to set out a framework in which functions in relation to the health service are conferred directly on the organisations responsible for exercising them. Within this framework:

- the Secretary of State continues to be under a duty to promote a comprehensive health service and to have ministerial accountability to Parliament for the health service;
- the Secretary of State also has direct responsibility (with local authorities) to protect and improve public health;
- the NHS Commissioning Board (now generally known as NHS England) is a non-departmental public body established as a body corporate by the Act, with broad overarching duties, in conjunction with the Secretary of State, to promote the comprehensive health service (other than in relation to public health), and to exercise its functions so as to secure that services are provided for the purposes of the comprehensive health service;
- provision is made for the establishment of clinical commissioning groups (CCGs), which are statutory corporate bodies, established on the grant of an application by NHS England. NHS England commissions primary care, some specialist care and health services for people in certain settings, but CCGs are responsible for commissioning the majority of health services.

1.2 Part 1 also included some related miscellaneous measures including amendments to the Mental Health Act 1983.

IMPLEMENTATION

1.3 The majority of Part 1 of the Act came into force on 1 April 2013.

1.4 Some provisions were commenced earlier. For example:

- section 8, which put a duty on the Secretary of State to report to Parliament within twelve months of Royal Assent on the treatment of health service providers, came into force on 1 June 2012;
- sections 39, 42 and 44, which updated mental health legislation, came into force on 1 July 2012;
- the provisions that brought the NHS Commissioning Board into being came into force on 1 October 2012, although the Board did not assume its full responsibilities until 1 April 2013, when it also adopted the operating name NHS England, by which it is now generally known;
- certain provisions (detailed in Annex A) came into force on 1 February 2013, to enable the Commissioning Board and CCGs to make contracts for the provision of services from 1 April 2013.

1.5 The following provisions in Part 1 have not been brought into force:

- **Water fluoridation** Sections 35-37 have not been commenced in relation to Wales; it is for Welsh Ministers to decide

when to do this. Section 35(6) has not been commenced in relation to England because it should be brought into force only when sections 35-37 are commenced for Wales.

- **Periodic reviews by the Care Quality Commission** A decision has been taken to leave in place the provisions in the Health and Social Care Act 2008 that require the Care Quality Commission to carry out periodic reviews of NHS Trusts and Foundation Trusts. Accordingly, the provisions in the 2012 Act that repealed those provisions have not been commenced and have instead been repealed by section 91(9)(f) of the Care Act 2014.

SECONDARY LEGISLATION ETC

1.6 The main uses of the delegated powers created by Part 1 are as follows.

Treatment of providers

1.7 Section 8 of the Act required the Secretary of State to lay a report in Parliament on the different treatment of NHS providers by March 2013. The review, undertaken by Monitor, looked at the extent to which all potential providers of NHS care have a fair opportunity to offer their services and identified a number of barriers that might prevent the provider best able to meet patients' needs from doing so. The full report is available on Monitor's website.³ Following the review the Secretary of State asked Monitor to chair a high level group to continue to drive progress towards a fair playing field in the interests of patients.

Mental health

1.8 Secondary legislation has been made under the powers provided by the Act to ensure that:

- the clinical commissioning group responsible for commissioning after-care services under section 117 of the Mental Health Act 1983 is the same one that commissions the patient's other health services;
- in prescribed circumstances the NHS Commissioning Board is responsible for commissioning a patient's mental health after-care.⁴

Establishment of, and quality payments to, CCGs

1.9 A set of regulations making provision in relation to the establishment of CCGs and for requirements relating to their names, membership and governance came into force on 1 October 2012.⁵

1.10 A further set of regulations, which came into force on 1 April 2013, made provision for payments to CCGs in respect of quality.⁶

NHS England: mandate, business plan, etc

1.11 Section 23 of the 2012 Act added provisions to the NHS Act 2006 which, amongst other things:

- put a duty on the Secretary of State to publish a mandate to NHS England before the start of each financial year (section 13A of the 2006 Act);
- require NHS England to publish a business plan before the start of each financial year (section 13T), and an annual report (section 13U, subsections (1)-(3)) as soon as practicable after the end of each financial year; and

⁴ The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012, SI 2012/2996 (regulations 14 and 15).

⁵ The National Health Service (Clinical Commissioning Groups) Regulations 2012, SI 2012/1631.

⁶ The National Health Service (Clinical Commissioning Groups – Payments in respect of Quality) Regulations 2013, SI 2013/474.

³ <http://www.monitor-nhsft.gov.uk/FPFR>

- require the Secretary of State to publish and lay before Parliament his assessment of NHS England's performance of its functions (section 13U, subsections (4)-(6)).

1.12 The Government's mandate was first published in November 2012⁷ and updated in November 2013.⁸ The current mandate sets out the ambitions for the health service to March 2015 and is structured around 5 main areas where the Government expects NHS England to make improvements:

- preventing people from dying prematurely
- enhancing quality of life for people with long-term conditions
- helping people to recover from episodes of ill health or following injury
- ensuring that people have a positive experience of care
- treating and caring for people in a safe environment and protecting them from avoidable harm.

The mandate reaffirms the Government's commitment to an NHS that remains available to all, based on clinical need and not ability to pay, and that is able to meet patients' needs and expectations now and in the future. The mandate for 2015-2016 will be published in autumn 2014.

1.13 NHS England has published a business plan, *Putting Patients First*, for 2013/14⁹ and for 2014/15.¹⁰ It has prepared a report on 2013/14 and the Secretary of State's assessment of its performance that year is

⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256497/13-15_mandate.pdf

⁸ <https://www.gov.uk/government/publications/nhs-mandate-2014-to-2015>

⁹ <http://www.england.nhs.uk/pp-1314-1516/>

¹⁰ <http://www.england.nhs.uk/2014/03/31/ppf-business-plan/>

expected to be laid and published in July 2014.

Standing rules and responsibilities of NHS England and of CCGs

1.14 A set of regulations dealing with commissioning responsibilities and standing rules for NHS England and CCGs came into force mostly on 1 April 2013.¹¹ Those regulations have since been amended a number of times.¹²

¹¹ The NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012, SI 2012/2996.

¹² From 1 April 2013, Part 7 of the National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013, SI 2013/261, gave NHS England responsibilities in relation to dental services and to Ashfield Young Offender Institution.

From 17 February 2014, the NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2014, SI 2014/91, gave NHS England responsibility for commissioning health services for detainees in a new Immigration Removal Centre.

From 1 April 2014 (for the most part), the NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013, SI 2013/2891, made a number of detailed changes, for example in relation to continuing health care; and the NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 2) Regulations 2014, SI 2014/452, extended the categories of secure children's homes for which NHS England has commissioning responsibility and added to the list of specialised services that NHS England, rather than CCGs, must commission. A motion "That this House regrets that the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 2) Regulations 2014 create arrangements for the management of services for very rare conditions that are much more fragmented than those in place prior to the Health and Social Care Act 2012; and further regrets that the process by which services for rare and very rare conditions are considered by the Prescribed Specialised Services Advisory Groups and NHS England for commissioning nationally are unclear and lacking in openness and transparency. (SI 2014/452)" was withdrawn after debate in the Lords on 6 May 2014.

From 1 October 2014, the NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 3) Regulations 2014, SI 2014/1611, make changes to the statutory rates payable for NHS-funded nursing care; to the provisions for personal health budgets; and to the duties as to choice of health service provider.

1.15 The main further sets of regulations affecting CCGs or NHS England made under powers created by Part 1 and in force since 1 April 2013:

- provide that a CCG does not have responsibility to commission services for certain groups of people, or in certain circumstances, even if they would otherwise fall within the CCG's responsibility;¹³
- put requirements on NHS England with respect to certain EU functions. The same regulations also deal with responsibility for commissioning in relation to certain mental health matters, and with matters relating to joint working arrangements between CCGs and Welsh Local Health Boards.¹⁴

Public health

1.16 The following sets of regulations, in force from 1 April 2013, deal with local authorities' public health responsibilities:

- one set of regulations provides for certain functions relating to the licensing of premises for sale of alcohol to be the responsibility of each authority's director of public health; requires local authorities to undertake two dental public health functions; and sets out procedures for local authority handling of complaints about their exercise of their public health functions under the 2012 Act;¹⁵
- another set of regulations makes provision for the steps to be taken by local authorities in exercising certain public health functions, for the exercise

by local authorities of the Secretary of State's public health functions and for the making and recovering of charges by local authorities in respect of their public health activities;¹⁶

- a further set of regulations deals with the role that upper tier local authorities have in public consultations about water fluoridation;¹⁷
- another set (mentioned above in connection with NHS England and CCGs)¹⁸ puts a duty on local authority directors of public health to undertake any responsibility their authority has to provide Healthy Start vitamins as part of a children's health or maternity service; and also makes arrangements about how information relating to births and deaths is to be notified to local authorities, NHS England and CCGs.

1.17 In addition, a voluntary agreement between the Secretary of State and NHS England is in place under the power created by section 22 of the 2012 Act. Under this agreement, NHS England commissions certain public health services at a national level. The agreement is aligned with the mandate, which provides the funding route. The programmes currently commissioned in this way are:

- National immunisation programmes
- National routine screening programmes (cancer and non-cancer)
- Children's public health services for 0-5 year olds, including the Health Visitors programme and Family Nurse Partnerships (until 30 September 2015)

13 The National Health Service (Clinical Commissioning Groups – Disapplication of Responsibility) Regulations 2013, SI 2013/350.

14 The National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013, SI 2013/261.

15 Parts 3 to 5 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012, SI 2012/3094.

16 The Local Authorities (Public Health Functions and Entry to Premises by Healthwatch Representatives) Regulations 2013, SI 2013/351. The Healthwatch element of these regulations is dealt with in Chapter 5 of this report.

17 The Water Fluoridation (Proposals and Consultation) (England) Regulations 2013, SI 2013/301.

18 SI 2013/261.

- Child Health Information Systems
- Public health services for people in places of detention
- Sexual Assault Referral Centres.

Secretary of State's annual report

1.18 Section 53 put a new duty on the Secretary of State to publish an annual report on the performance of the health service in England. The first such report is expected to appear shortly.

LEGAL ISSUES

1.19 The Department has laid a draft Legislative Reform Order¹⁹ before Parliament which aims to amend provisions relating to the joint exercise of functions by CCGs and by CCGs and NHS England. If made this Order will allow CCGs to form joint committees when exercising their functions jointly, and will also allow NHS England and CCGs jointly to exercise a CCG function, and to do so through a joint committee.

OTHER REVIEWS

1.20 A report that the Health Select Committee published in February 2014 included the conclusions it drew from its inquiry into implementation of the Health and Social Care Act 2012. On the subject of system leadership, it argued that:

“There is a real danger that, without a body which can take charge of decisions about reconfiguration and integration of services, change which needs to be made to maintain and improve services will not happen. As the Committee has noted earlier in this report, the evidence we heard in this inquiry confirms to us that, in the present system, this is the most viable approach to ensure

continuity of and improvement in services.”²⁰

1.21 In its response in April 2014, the Government explained that the essence of its approach to health and social care services is that they are person-centred, and designed around the needs of citizens and communities, not mandated by a top-down remote body. The reconfiguration of services should, in most cases, be led by commissioners, but the most effective plans are those built in partnership between commissioners, local authorities, and providers, working together across a local health and care system, and with health and wellbeing boards being the key forum for ensuring that the local system meets the needs of communities.²¹

ASSESSMENT

1.22 Part 1 of the Act met its main objective of setting out a new framework for the health service in England.

19 Draft Legislative Reform (Clinical Commissioning Groups) Order 2014.

20 Paragraph 79 of the Health Committee's 7th Report of Session 2013-14, *Public expenditure on health and social care*, <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhealth/793/79307.htm>

21 See paragraphs 64-70 of *Government Response to the House of Commons Health Select Committee Report into Public Expenditure on Health and Social Care (Seventh Report of Session 2013-14)* <https://www.gov.uk/government/publications/report-on-public-expenditure-on-health-and-social-care-response>

Part 2: Further Provision about Public Health

OBJECTIVES

2.1 The objective of Part 2 was to deal with a number of provisions relating to the public health service, including abolition of the Health Protection Agency, functions in relation to biological substances and radiological protection, repeal of the AIDS (Control) Act 1987, and co-operation with bodies exercising functions in relation to public health.

IMPLEMENTATION

2.2 The AIDS (Control) Act 1987 was repealed on 1 July 2012. Otherwise, Part 2 came into force on 1 April 2013. From that date, Public Health England came into being as an executive agency of the Department of Health, exercising most of the functions given to the Secretary of State by Part 2 of the Act. (Functions relating to biological substances are exercised by the Medicines and Healthcare products Regulatory Agency, another executive agency of the Department of Health).

SECONDARY LEGISLATION ETC

2.3 Part 2 of the Act did not create any new delegated powers.

LEGAL ISSUES

2.4 None.

OTHER REVIEWS

2.5 The Health Select Committee published a report on an inquiry into Public Health

England (PHE) in February 2014.²² The report was concerned with PHE's performance rather than with the 2012 Act as such. The Committee did, however, express concern that "there is insufficient separation between PHE and the Department of Health" and called for the relationship to be clarified and PHE to establish that it is truly independent of Government. In its response,²³ the Government said:

"Since 2010, when we first began to discuss reforms to the health care system, we have been guided by a fundamental and clear principle – that protecting the health of the people of England is properly the business of central government. The Health and Social Care Act 2012 created the statutory framework for the new system by abolishing the [Health Protection Agency] and conferring on the Secretary of State (and only on the Secretary of State) a new duty to take appropriate steps to protect the health of the population.

In 2013 we established PHE as an executive agency of the Department of Health to play the leading role in putting into practice the Secretary of State's new duties. The Secretary of State is – quite rightly – accountable for everything that PHE does, but this does not mean that it will ever be simply expected to

²² <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhealth/840/84002.htm>

²³ Published 12 June 2014 <https://www.gov.uk/government/publications/health-select-committee-report-on-public-health-england-government-response>

carry out a set of detailed instructions. We have emphasised repeatedly that PHE can only play its part in full if it is free to use its expertise in the ways that it knows are the most effective in achieving our shared objectives. It now has that freedom, but it remains critically important that PHE is seen to be credible and authoritative, and that its positions are based on the best available evidence, analysis and professional and scientific judgement.”

The response went on to note that the Government has built significant safeguards into PHE’s governance arrangements to preserve its freedom to speak and publish on the basis of the evidence and its professional judgement.

ASSESSMENT

2.6 Part 2 of the Act has met its objectives from 1 April 2013.

Part 3: Regulation of Health and Adult Social Care Services

OBJECTIVE

3.1 The objective of Part 3 of the Act was to make Monitor (previously the independent regulator of NHS foundation trusts) the sector regulator for all health care services.

IMPLEMENTATION

3.2 Most of Part 3 of the Act came fully into force on 1 April 2013, with some provisions commenced earlier to allow for preparatory work.

3.3 Some further provisions in Chapters 3 and 4, relating to licensing and pricing of health services, came fully into force on 1 April 2014.

3.4 The following provisions of Part 3 have not yet been brought into force:

Section 65 provides a **power to give Monitor functions related to social services**. There are no current plans to commence this.

Chapter 5 deals with **health special administration** (HSA, a process whereby Monitor is able to secure continuity of services provided by companies), and chapter 6 with **financial assistance in HSA cases**. In April 2014, the Government announced its decision, following public consultation, not to proceed with HSA or with a risk pool, as envisaged by chapter 6, as previously planned. The consultation raised operational and

policy issues, which it has not been possible to resolve because of lack of information on which services would be subject to such a regime. Further consideration may be given to the introduction of HSA or alternative provisions and the possibility of a risk pool at a later date. These chapters (and elements of section 104(4)(b) which relate to them) are therefore unlikely to be commenced (except for section 144(3)(b) and (6), which came into force on 1 November 2013).

Transitional provision: the need for section 150(2) and (4), and for paragraph 10 of Schedule 13 and section 150(5) insofar as it relates to that, is now spent and those provisions will not be commenced.

SECONDARY LEGISLATION ETC

3.5 The main secondary legislation made under the powers created by Part 3 of the Act is as follows:

- requirements on NHS England and CCGs to ensure good practice when procuring health care services, to protect patients' rights to make choices, and to prevent anti-competitive behaviour came into force on 1 April 2013;²⁴

²⁴ The National Health Service (Procurement, Patient Choice and Competition) Regulations 2013, SI 2013/259 were superseded by The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013/500.

- In preparation for the introduction from 1 April 2014 of the requirement for providers generally to be licensed:
 - a set of regulations came into force in September 2013. These provided for the levels of objections that would require further consideration of any proposals by Monitor for modifications to the standard conditions included in licences, and for Monitor’s proposed methodology for calculating national prices to be paid for NHS services as set out in the National Tariff;²⁵
 - regulations were also made exempting certain providers from the requirement to hold a licence. These came into force at the same time as the requirement to hold a licence, on 1 April 2014;²⁶
 - the Secretary of State made an order in November 2013 signifying his approval of the criteria that Monitor must set and publish and that applicants for a licence to provide NHS health care services must meet.²⁷

3.6 In addition, Monitor published:

- guidance about the procurement, patient choice and competition regulations, as required by section 78 of the 2012 Act, in December 2013;²⁸
- the conditions to be included in each licence under Chapter 3 of Part 3, as

required by section 94 of the Act, in February 2013 (updated in May 2014);²⁹

- the national tariff for 2014/15, as required by section 116 of the Act, in December 2013.³⁰

LEGAL ISSUES

3.7 None.

OTHER REVIEWS

3.8 The Health Select Committee’s February 2014 report (already mentioned in paragraph 1.20 above) included the conclusions that they had drawn about competition from their inquiry into implementation of the Health and Social Care Act 2012:

“For reasons of both financial viability and quality of service, the Office of Fair Trading and the Competition Commission need to ensure that their decisions on mergers are reached as quickly as possible. They should also have regard to the principle legislated for in the Act in respect of Monitor that it must allow ‘provision of services in an integrated way’ where this improves quality of provision or reduces inequalities in relation to access to services or to outcomes.” (paragraph 86)

“The Secretary of State told us that he did not consider that there was a case as yet for seeking to change competition law. The Committee is concerned, however, that in the case of Bournemouth and Poole the competition authorities intervened to obstruct a proposed service reconfiguration on competition grounds without being able to substitute another proposal to deliver

25 The National Health Service (Licensing and Pricing) Regulations 2013, SI 2013/2214.

26 The National Health Service (Licence Exemptions, Etc) Regulations 2013, SI 2013/2677.

27 The National Health Service (Approval of Licensing Criteria) Order 2013, SI 2013/2960.

28 <https://www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance>

29 <https://www.gov.uk/government/publications/the-nhs-provider-licence>

30 <https://www.gov.uk/government/publications/national-tariff-payment-system-2014-to-2015>

service change. The Committee has stated its view many times that there needs to be an increase in the pace and scale of service change. The Committee recommends that the Government should examine the background to the Bournemouth and Poole proposal in order to ensure that unnecessary impediments to necessary change are removed.” (paragraph 93)

3.9 It is important to recognise that the powers of the Competition & Markets Authority (which brought together the functions of the Competition Commission and the Office of Fair Trading from 1 April 2014) to regulate mergers in all sectors of the UK exist under the Enterprise Act 2002, independently of the 2012 Act. In its response to the Committee,³¹ the Government agreed that, where local health economies are pursuing service change, in the best interests of patients, this should be able to proceed at pace. It noted the joint statement issued by the competition authorities and Monitor in 2013, explaining how they work together to ensure that patients’ interests are always at the heart of the merger review process. It also described the steps that Monitor is taking to provide more active support to organisations that are planning to merge, and said that it expects this to mean that, in future, where a review of a merger by the competition authorities is necessary, the process will be quicker and less costly. Subsequently, on 14 May 2014, the Competition & Markets Authority cleared, within thirty days, the anticipated merger of Frimley Park Hospital NHS Foundation Trust and Heatherwood and Wexham Park Hospitals NHS Foundation Trust.

3.10 Also relevant to matters covered by this Part of the Act is the Health Select Committee’s report of its 2013 accountability hearing with Monitor.³² Of particular relevance to section 65 of the 2012 Act was the Committee’s recommendation (paragraph 17) that the Government should ask Monitor to take responsibility for the financial regulation of social care. In the response it submitted to the Committee on 13 May 2014, the Government explained why it does not agree with this recommendation and noted that the Care Act 2014 now provides for the Care Quality Commission to have this function.

ASSESSMENT

3.11 Part 3 of the Act has met its main objectives, chiefly through the creation of Monitor as the health sector regulator.

³¹ See paragraphs 71-77 of *Government Response to the House of Commons Health Select Committee Report into Public Expenditure on Health and Social Care (Seventh Report of Session 2013-14)* <https://www.gov.uk/government/publications/report-on-public-expenditure-on-health-and-social-care-response>

³² <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhealth/841/84102.htm>

Part 4: NHS Foundation Trusts & NHS Trusts

OBJECTIVES

4.1 The main objectives of Part 4 were, in relation to foundation trusts:

- i) to remove various restrictions on foundation trusts, and to make changes to the authorisation of foundation trusts, taking account of the provisions in Part 3 for Monitor to become a provider regulator and to license all providers of NHS services;
- ii) to replace provision for the de-authorisation of foundation trusts with a power for Monitor to operate failure arrangements for foundation trusts;
- iii) to amend the duties on governors and directors, to introduce new powers for governors, and to amend the financing and accounting arrangements of foundation trusts;

and in relation to NHS trusts:

- iv) to repeal NHS trust legislation and Monitor's power to authorise new foundation trusts.

IMPLEMENTATION

4.2 The majority of Part 4 came into force on 1 April 2013, with some provisions commenced earlier to allow for preparatory work.

4.3 Provisions which have not yet been commenced are:

- some of the governance requirements for foundation trusts (section 151(7), 155 and 156(3)-(4)).

The intention is for these to be commenced when Monitor ceases to have a specific role in relation to foundation trusts that it does not have for other providers. A timetable for this has not yet been set.

- section 159(4), which requires the Care Quality Commission to reach a certain view before Monitor can authorise an NHS trust to become a foundation trust.

The Care Quality Commission will publish revised handbooks for the inspection, regulation and rating of providers in September 2014. (These will take account of the Commission's consultation on defining ratings under a new regime, which closed on 4 June 2014, and of its testing of inspection and ratings methodologies). The Government will decide what action should be taken on section 159(4) in light of this.

- sections 179-180 and Schedule 14,³³ which deal with the abolition of NHS Trusts.

A timetable for bringing these provisions into force has not been set.

³³ Also some elements of Schedule 21 (paragraphs 2(3)(f), 4(b), 9 fully, 43(2)(a)(iii) and (2)(b) insofar as it inserts (gf)) and section 297 insofar as it relates to those provisions.

SECONDARY LEGISLATION ETC

4.4 To date, the main uses of delegated powers created or amended by Part 4 have been as follows:

- the powers for Monitor to act in relation to a failing foundation trust have been used in relation to the Mid Staffordshire NHS Foundation Trust as follows. An order appointing special administrators was made under the power provided by section 174,³⁴ and the time within which the special administrator must report was twice extended under the power provided by section 176.³⁵ An order dissolving the foundation trust under the power provided by section 177 is not likely to be made until autumn 2014;
- Monitor published guidance for commissioners, as required by section 175, on 5 April 2014.³⁶

4.5 Section 155 of the 2012 Act provides powers for the Secretary of State to direct foundation trusts about matters relating to the production of their accounts, and section 156 provides powers for the Secretary of State, first by order to amend primary legislation so that the ability to set requirements for foundation trusts' annual reports transfers to him from Monitor, and second by regulations to set any such requirements. It remains the intention to use these powers when Monitor loses its specific role in relation to foundation trusts, but a timetable for this has not yet been set.

34 The Mid Staffordshire NHS Foundation Trust (Appointment of Trust Special Administrator) Order 2013, SI 2013/838.

35 The Mid Staffordshire NHS Foundation Trust (Trust Special Administrators Extension of Time) Order 2013, SI 2013/1483, and the Mid Staffordshire NHS Foundation Trust (Trust Special Administrators Extension of Time)(No. 2) Order 2013, SI 2013/2671.

36 <http://www.monitor-nhsft.gov.uk/home/news-events-publications/our-publications/browse-category/guidance-health-care-providers-and-co-5>

LEGAL ISSUES

4.6 None.

OTHER REVIEWS

4.7 In the light of the Government's response to the findings of the report of the Mid-Staffordshire NHS Foundation Trust Public Inquiry, led by Robert Francis (now Sir Robert Francis) QC, the Government decided the failure regime for NHS providers should encompass quality as well as finance. The necessary provisions are included in the Care Act 2014.

4.8 The Health Select Committee, in paragraph 17 of its report on its 2013 accountability hearing with Monitor, welcomed the Government's decision not to set a firm timetable for the abolition of NHS trust legislation.³⁷

4.9 The National Audit Office's February 2014 report *Monitor: Regulating NHS Foundation Trusts*³⁸ made five recommendations, but none was concerned with the legislation in the 2012 Act.

ASSESSMENT

4.10 Part 4 of the 2012 Act has generally met its objectives. However, Monitor still has a role in relation to foundation trusts that it does not have in relation to other healthcare providers, and the repeal of legislation on NHS trusts has not yet been put into effect.

37 <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhealth/841/84102.htm>

38 <http://www.nao.org.uk/report/monitor-regulating-nhs-foundation-trusts/>

Part 5: Public Involvement and Local Government

OBJECTIVES

5.1 The objectives of Part 5 were:

- to provide for the creation of a new national body, Healthwatch England, as a statutory committee within the Care Quality Commission;
- to make provision about Local Healthwatch organisations in each local authority area;
- to deal with health scrutiny functions of local authorities and to provide for the establishment of Health and Wellbeing Boards in each upper tier local authority area;
- to make it possible for foundation trusts and clinical commissioning groups to be designated as Care Trusts;
- to require local authorities to make such arrangements for the provision of independent advocacy services in relation to their areas as they consider appropriate;
- to remove the restrictions on those to whom the Health Service Commissioner can send investigation reports and statements of reasons.

IMPLEMENTATION

5.2 Section 201, which removed the restrictions on the Health Service Commissioner, came into force on 1 July 2012. Section 181 came into force on 1

October 2012 to the extent necessary to allow Healthwatch England to prepare for assumption of its full functions from 1 April 2013, in particular those concerning the provision of general advice and assistance to local Healthwatch organisations in relation to the carrying on of activities specified in section 221(2) of the Local Government and Public Involvement in Health Act 2007.

5.3 The remainder of Part 5 came into force on 1 April 2013, with the exception of section 190(9), which will not be commenced, as it made provision for a situation that did not arise.³⁹

SECONDARY LEGISLATION ETC

5.4 The main uses of the delegated powers created by Part 5 have been as follows:

- Various provisions relating to Local Healthwatch organisations have been made by a statutory instrument which:
 - sets criteria to be satisfied by Local Healthwatch organisations, in order for them to be contracted by local authorities to carry out activities relating to patient and public involvement in health and social care services;

³⁹ Section 190(9) sets out how section 21 of the Local Government Act 2000 is to be read until the coming into force of paragraph 19 of Schedule 3 to the Localism Act 2011. This provision of the Localism Act came into force before section 190, so there was no need to commence section 190(9).

- sets out requirements for certain provisions to be included in arrangements between local authorities and Local Healthwatch organisations;
 - sets out requirements for certain provisions to be included in arrangements between a Local Healthwatch organisation and its contractor(s);
 - imposes duties on certain providers and commissioners of health and social care services (certain NHS bodies and local authorities) to respond to reports and recommendations from Local Healthwatch organisations or their representatives; and
 - sets out the time by which an overview and scrutiny committee of a local authority must acknowledge receipt of a referral of a social care matter by a Local Healthwatch organisation or a Local Healthwatch contractor;⁴⁰
- Powers of entry for Local Healthwatch organisations are provided by another instrument;⁴¹
 - A further instrument makes provision concerning functions of local authorities in relation to: Health and Wellbeing Boards; health scrutiny, community right to challenge of public health services and the National Child Measurement Programme.⁴²

40 Part 6 of The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012, SI 2012/3094.

41 Part 4 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013, SI 2013/351.

42 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, SI 2013/218.

LEGAL ISSUES

5.5 None.

OTHER REVIEWS

Complaints

5.6 Recommendation 134 of the final report of the Mid Staffordshire NHS Foundation Trust Public Inquiry⁴³ said:

“Consideration should be given to whether commissioners should be given responsibility for commissioning patient’s advocates and support services for complaints against providers.”

In its response, *Hard Truths*, the Government stated:

“The Department of Health recognises that the current arrangements for the commissioning of complaints advocacy services are new. The Department of Health will begin an evaluation of the current arrangements for commissioning NHS advocacy services in 2014.”⁴⁴

Health and Wellbeing Boards

5.7 The Health Select Committee recommended (in paragraph 80 of their report on implementation of the 2012 Act) that “the role of Health and Wellbeing Boards needs to develop to allow them to become effective commissioners of joined-up health and care services.” The Government, in its response, agreed, saying:

“Health and wellbeing boards are relatively new organisations, having become fully established on 1st April 2013. The Department is therefore committed to working with its partners, both locally and nationally, to ensure they are able to meet the challenges of

43 Chaired by Robert Francis (now Sir Robert Francis) QC, and published on 6 February 2013.

44 <https://www.gov.uk/government/publications/mid-staffordshire-nhs-ft-public-inquiry-government-response>

leading and shaping the provision of health care in local areas. As mentioned previously, the Department is funding a programme of developmental support for health and wellbeing boards, delivered in partnership with the [Local Government Association], NHS England, Public Health England, the NHS Confederation and Healthwatch England.”⁴⁵

ASSESSMENT

5.8 Part 5 of the Act has met its objectives. Healthwatch England has assumed its full functions and all 152 upper tier local authorities in England have commissioned a Local Healthwatch organisation.

⁴⁵ <https://www.gov.uk/government/publications/report-on-public-expenditure-on-health-and-social-care-response>

Part 6: Primary Care Services

OBJECTIVE

6.1 Part 6 of the Act updated existing provisions on primary care services chiefly to take account of other changes made by the Act (such as the creation of NHS England and of CCGs).⁴⁶ For the most part, the changes made were not substantial, but more significant changes included section 206, which gave local authority Health and Wellbeing Boards responsibility for pharmaceutical needs assessments.

IMPLEMENTATION

6.2 Part 6 mostly came into force on 1 April 2013.

6.3 Section 208 has not been brought into force. Provision to have a list of performers of pharmaceutical services and their assistants was first put on the statute book in 2002 but has not yet been used. Section 208 updates the 2002 provision to take account of the changes to the NHS made by the 2012 Act. This preserves the ability to have a performers list, but there are no current plans to commence this provision.

SECONDARY LEGISLATION ETC

6.4 Key new sets of regulations made under the powers created or updated by Part 7 of the Act are the following which came into force on 1 April 2013:

- the National Health Service (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013, SI 2013/349;⁴⁷
- the National Health Service (Optical Charges and Payments) Regulations 2013, SI 2013/461.⁴⁸

LEGAL ISSUES

6.5 None.

OTHER REVIEWS

6.6 None.

ASSESSMENT

6.7 Part 6 met its objective of updating primary legislation on primary care in the light of other changes made by the 2012 Act. In particular, early indications are that Health and Wellbeing Boards are rising to the challenge of producing pharmaceutical needs assessments.

⁴⁶ Some of the material in Part 1 of the Act also contributed to this aim; for example, in the case of pharmaceutical services, section 51 and Schedule 4, Part 7.

⁴⁷ Amended with effect from 1 April 2014 by the National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014, SI 2014/417.

⁴⁸ Amended with effect from 1 November 2013 by the National Health Service (Optical Charges and Payments) (Amendment) Regulations 2013, SI 2013/1856.

Part 7: Regulation of Health and Social Care Workers

OBJECTIVES

7.1 The objectives of Part 7 were:

- to provide for the abolition of the General Social Care Council and the transfer of some of its functions to the Health Professions Council, which is renamed the Health and Care Professionals Council to reflect its wider remit across health and social care;
- to make changes to the funding and functions of the Council for Healthcare Regulatory Excellence, which is renamed the Professional Standards Authority for Health and Social Care;
- to abolish the Office of the Health Professions Adjudicator.

IMPLEMENTATION

7.2 Part 7 was generally implemented before 1 April 2013. In particular, the provisions abolishing the Office of the Health Professions Adjudicator came into force on 1 July 2012, and those abolishing the General Social Care Council on 1 October 2012.

7.3 Section 226(2)(a), which transfers responsibility for appointing non-executive members of the Professional Standards Authority from the Secretary of State to the Privy Council, came into force on 9 June 2014.

7.4 A timetable has not yet been set for commencing some of the provisions relating to the functions of the Professional

Standards Authority, its powers to advise regulatory bodies and its accountability and governance and funding.

SECONDARY LEGISLATION ETC

7.5 No secondary legislation has yet been made under the powers provided by Part 7 of the Act.

LEGAL ISSUES

7.6 None.

OTHER REVIEWS

7.7 The Law Commission, working with the Scottish Law Commission and the Northern Ireland Law Commission, has conducted a review of UK law relating to the regulation of health care professionals and, in England only, the regulation of social workers. The Law Commission published its final report and a draft Bill on 2 April 2014.⁴⁹ The final report proposes a new single legal framework for the regulation of all health and social care professionals, consolidating and simplifying the existing legal framework (including those elements of it that result from the 2012 Act). The Government plans to respond to the Law Commission's proposals in due course.

⁴⁹ http://lawcommission.justice.gov.uk/areas/Healthcare_professions.htm

ASSESSMENT

7.8 Part 7 has generally achieved its objectives, though some issues relating to the Professional Standards Authority are still to be taken forward.

Part 8: The National Institute for Health and Care Excellence

OBJECTIVE

8.1 The main objective of Part 8 of the Act was to re-establish the National Institute for Health and Clinical Excellence Special Health Authority as an executive non-departmental public body named the National Institute for Health and Care Excellence (NICE) and to extend its remit to include adults' and children's social care.

IMPLEMENTATION

8.2 Part 8 of the Act came into force on 1 April 2013.

SECONDARY LEGISLATION ETC

8.3 Regulations made under powers in Part 8 of the Act came into force on 1 April 2013 and confer on NICE functions similar to those carried out by its predecessor, but in relation also to additional public health services and social care.⁵⁰

LEGAL ISSUES

8.4 None.

OTHER REVIEWS

8.5 NICE, like other Department of Health arm's length bodies, is subject to triennial

reviews. The first of these is expected to take place towards the end of 2014.

ASSESSMENT

8.6 The legislation achieved its objective of putting in place arrangements intended to:

- establish NICE as a corporate body;
- replicate the effect of the funding direction, which means that NHS patients continue to have the right to receive drugs and treatments recommended by NICE where they are clinically appropriate;
- extend NICE's remit into social care. This is progressing well: NICE is developing 15 pieces of adult social care guidance covering a wide spectrum (for example one on child abuse and neglect, and another on older people with long term conditions). NICE's extended remit also means that it is in a good position to support integration across the health and care sectors.

⁵⁰ The National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013, SI 2013/259.

Part 9: Health and Adult Social Care Services: Information

OBJECTIVES

9.1 The main objectives of Part 9 of the Act were:

- to set out how the Secretary of State or NHS England may prepare and publish information standards; and
- to establish the Health and Social Care Information Centre as a non-departmental public body.

IMPLEMENTATION

9.2 Part 9 of the Act came into force on 1 April 2013.

SECONDARY LEGISLATION ETC

9.3 Regulations made under powers in Part 9 of the Act came into force on 1 April 2013 and confer on the Health and Social Care Information Centre functions similar to those carried out by its predecessor and also in relation to some additional public health services and adult social care in England.⁵¹

LEGAL ISSUES

9.4 None.

OTHER REVIEWS

9.5 The Health and Social Care Information Centre, like other Department of Health arm's length bodies, is subject to triennial reviews. The first of these is expected to take place in 2016/17.

ASSESSMENT

9.6 The legislation achieved its objective of establishing the Health and Social Care Information Centre as a non-departmental public body, and providing new powers for the Secretary of State and the NHS Commissioning Board (NHS England) to prepare and publish information standards.

⁵¹ The National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013, SI 2013/259.

Part 10: Abolition of Certain Public Bodies etc

OBJECTIVES

10.1 The objectives of Part 10 were:

- to abolish the Alcohol Education and Research Council, the Appointments Commission, the National Information Governance Board for Health and Social Care, the National Patient Safety Agency and the NHS Institute for Innovation and Improvement; and
- to repeal section 250 of the NHS Act 2006 (which allowed for the establishment of standing advisory committees), with a saving provision for the continuation of the Joint Committee on Vaccination and Immunisation.

ASSESSMENT

10.6 Part 10 of the Act achieved its objective of abolishing various public bodies.

IMPLEMENTATION

10.2 The provisions of Part 10 were brought into effect on various dates between 1 July 2012 and 1 April 2013.

SECONDARY LEGISLATION ETC

10.3 Part 10 of the Act did not create any delegated powers.

LEGAL ISSUES

10.4 None.

OTHER REVIEWS

10.5 None.

Part 11: Miscellaneous

OBJECTIVES

11.1 Part 11 contained a number of miscellaneous provisions, including provisions addressing duties for bodies to co-operate, arrangements with devolved authorities, supervised community treatment and transfer schemes.

IMPLEMENTATION

11.2 Part 11 of the Act came into force on or before 1 April 2013, with the exception of:

- elements of sections 288-289, relating to the duties on Monitor and the Care Quality Commission to co-operate with each other, including on joint licensing, which came into force on 1 April 2014 (see above on Part 3);
- provisions relating to the abolition of NHS Trusts,⁵² which have not yet been commenced (see above on Part 4).

11.3 Section 293, which requires the Care Quality Commission to gain Secretary of State approval before conducting reviews under section 48, 54 or 57 of the Health and Social Care Act 2008, came into force on 1 April 2013, but has now been repealed by sections 90(10) and 91(9)(e) of the Care Act 2014.

SECONDARY LEGISLATION ETC

11.4 An amendment to mental health regulations reflected the removal by the 2012

Act of a requirement for a second opinion to approve treatment for a mental health patient who is subject to a community treatment order if the patient consents to that treatment.⁵³ These were the first regulations made under powers created or amended by the 2012 Act and came into force on 1 June 2012.

11.5 The powers to make transfer schemes in section 300 were used to transfer staff and property to effect the reorganisations provided for by the Act.

LEGAL ISSUES

11.6 None.

OTHER REVIEWS

11.7 None, except that, as noted above, section 293 was repealed by the Care Act 2014. This was done as part of a package of measures that increased the operational independence of the Care Quality Commission by removing nine separate powers of the Secretary of State to intervene in its day-to-day functions.

ASSESSMENT

11.8 Part 11 of the Act generally achieved its objectives.

⁵² Some elements of Schedule 21 (paragraphs 2(3)(f), 4(b), 9 fully, 43(2)(a)(iii) and (2)(b) insofar as it inserts (gf) and section 297 insofar as it relates to those provisions.

⁵³ The Mental Health (Hospital, Guardianship and Treatment) (England) (Amendment) Regulations 2012, SI 2012/1118.

Part 12: Final Provisions

OBJECTIVES

12.1 Part 12 of the Act dealt with various technical matters.

IMPLEMENTATION

12.2 Part 12 came into force on Royal Assent.

SECONDARY LEGISLATION ETC

12.3 Part 12 provided a power to make provision consequential on the Act, which to date has been used on six occasions.⁵⁴

12.4 Part 12 also provided a power to make commencement orders, which to date has been used on eight occasions (see Annex A).

LEGAL ISSUES

12.5 None.

OTHER REVIEWS

12.6 None.

ASSESSMENT

12.7 Part 12 has achieved its objective of dealing with various technical matters.

⁵⁴ Statutory Instruments 2012/1479, 1641 and 2672, and 2013/235, 594 and 2341.

Annex A: Commencement of Provisions in the Act

Section 306 of the Act brought certain provisions of the Act into force on the day of Royal Assent. Other provisions have been commenced by order. The table appended to the most recent commencement order has been updated to include the provisions commenced by that order and is reproduced below.

Provision	Date of Commencement	S.I. No.
Section 1 (partially)	1st October 2012	S.I. 2012/1831
Section 1 (remainder)	1st April 2013	S.I. 2013/160
Sections 2 to 7	1st April 2013	S.I. 2013/160
Section 8	1st June 2012	S.I. 2012/1319
Section 9 (partially)	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
Section 9 (remainder)	1st April 2013	S.I. 2013/160
Section 10 (partially)	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
Section 10 (remainder)	1st April 2013	S.I. 2013/160
Sections 11 and 12	1st April 2013	S.I. 2013/160
Section 13 (partially)	1st February 2013	S.I. 2012/2657
Section 13 (remainder)	1st April 2013	S.I. 2013/160
Section 14 (partially)	1st February 2013	S.I. 2012/2657
Section 14 (remainder)	1st April 2013	S.I. 2013/160
Section 15	1st February 2013	S.I. 2012/2657
Section 16	1st April 2013	S.I. 2013/160
Section 17 (partially)	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
Section 17 (remainder)	1st April 2013	S.I. 2013/160

Provision	Date of Commencement	S.I. No.
Sections 18 and 19	1st April 2013	S.I. 2013/160
Section 20	1st February 2013	S.I. 2012/2657
Section 21	1st October 2012	S.I. 2012/1831
Section 22 (partially)	1st October 2012	S.I. 2012/1831
Section 22 (remainder)	1st April 2013	S.I. 2013/160
Section 23 (partially)	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
Section 23 (remainder)	1st April 2013	S.I. 2013/160
Section 24 (partially)	1st October 2012	S.I. 2012/1831
Section 24 (remainder)	1st April 2013	S.I. 2013/160
Section 25 (partially)	1st October 2012	S.I. 2012/1831
Section 25 (remainder)	1st April 2013	S.I. 2013/160
Section 26 (partially)	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
Section 26 (remainder)	1st April 2013	S.I. 2013/160
Section 27 (partially)	1st October 2012	S.I. 2012/1831
Section 27 (remainder)	1st April 2013	S.I. 2013/160
Section 28	1st April 2013	S.I. 2013/160
Section 29 to 34	1st April 2013	S.I. 2013/160
Section 35 (partially), in relation to England only	1st April 2013	S.I. 2013/160
Section 36 in relation to England only	1st April 2013	S.I. 2013/160
Section 37 in relation to England only	1st April 2013	S.I. 2013/160
Section 38	1st April 2013	S.I. 2013/160
Section 39	1st July 2012	S.I. 2012/1319
Section 40 (partially)	1st February 2013	S.I. 2012/2657
Section 40 (remainder)	1st April 2013	S.I. 2013/160
Section 41	1st April 2013	S.I. 2013/160
Section 42	1st July 2012	S.I. 2012/1319
Section 43	1st April 2013	S.I. 2013/160

Provision	Date of Commencement	S.I. No.
Section 44	1st July 2012	S.I. 2012/1319
Sections 45 to 54	1st April 2013	S.I. 2013/160
Section 55 (partially)	1st July 2012	S.I. 2012/1319
	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
	1st April 2013	S.I. 2013/160
Section 56 to 58	1st April 2013	S.I. 2013/160
Section 59	1st July 2012	S.I. 2012/1319
Section 60	1st April 2013	S.I. 2013/160
Section 61 (partially)	1st July 2012	S.I. 2012/1319
Section 61 (remainder)	1st November 2012	S.I. 2012/2657
Section 62 (partially)	1st November 2012	S.I. 2012/2657
Section 62 (remainder)	1st April 2013	S.I. 2013/160
Section 63	1st November 2012	S.I. 2012/2657
Section 64 (partially)	1st June 2012	S.I. 2012/1319
	1st July 2012	S.I. 2012/1319
Section 64 (remainder)	1st November 2012	S.I. 2012/2657
Section 66 (partially)	1st November 2012	S.I. 2012/2657
Section 66 (remainder)	1st April 2013	S.I. 2013/671
Section 67 (partially)	1st November 2012	S.I. 2012/2657
Section 67 (remainder)	1st April 2013	S.I. 2013/671
Section 68 (partially)	1st November 2012	S.I. 2012/2657
Section 68 (remainder)	1st April 2013	S.I. 2013/671
Section 69	1st April 2013	S.I. 2013/671
Section 70	1st November 2012	S.I. 2012/2657
Section 71	1st November 2012	S.I. 2012/2657
Sections 72 and 73	1st April 2013	S.I. 2013/160
Section 74 (partially)	1st April 2013	S.I. 2013/160
Section 74 (remainder)	1st April 2013	S.I. 2013/671

Provision	Date of Commencement	S.I. No.
Sections 75 to 77	1st April 2013	S.I. 2013/160
Section 78	1st February 2013	S.I. 2012/2657
Section 79	1st July 2012	S.I. 2012/1319
Section 80	1st April 2013	S.I. 2013/160
Section 81 (partially)	1st April 2013	S.I. 2013/671
Section 81 (remainder)	1st April 2014	S.I. 2014/39
Section 82	1st April 2013	S.I. 2013/671
Section 83 and 84	1st April 2014	S.I. 2014/39
Sections 85 to 87 (partially)	1st April 2013	S.I. 2013/671
Section 85 (remainder)	1st January 2014	S.I. 2013/2896
Section 86 (remainder)	1st January 2014	S.I. 2013/2896
Section 87 (remainder)	1st April 2014	S.I. 2014/39
Sections 88 and 89	1st April 2013	S.I. 2013/671
Sections 90 to 92 (partially)	1st April 2013	S.I. 2013/671
Sections 90 to 92 (remainder)	1st April 2014	S.I. 2014/39
Section 93	1st April 2013	S.I. 2013/671
Section 94 (partially)	1st November 2012	S.I. 2012/2657
Section 94 (remainder)	1st April 2013	S.I. 2013/671
Section 95 (partially)	1st November 2012	S.I. 2012/2657
	1st April 2013	S.I. 2013/671
Section 95 (remainder)	1st July 2013	S.I. 2013/671
Section 96 (partially)	1st November 2012	S.I. 2012/2657
	1st July 2013	S.I. 2013/671
Section 96 (remainder)	1st April 2014	S.I. 2014/39
Section 97 (partially)	1st November 2012	S.I. 2012/2657
Section 97 (remainder)	1st April 2013	S.I. 2013/671
Section 98 (partially)	1st November 2012	S.I. 2012/2657
Section 98 (remainder)	1st April 2013	S.I. 2013/671
Section 99	1st April 2013	S.I. 2013/671

Provision	Date of Commencement	S.I. No.
Section 100	1st July 2013	S.I. 2013/671
Section 101 (partially)	1st November 2012	S.I. 2012/2657
Section 101 (remainder)	1st July 2013	S.I. 2013/671
Section 102	1st April 2013	S.I. 2013/671
Section 103 (partially)	1st November 2012	S.I. 2012/2657
	1st April 2013	S.I. 2013/671
Section 103 (remainder)	1st July 2013	S.I. 2013/671
Section 104 (partially)	1st November 2012	S.I. 2012/2657
	1st April 2013	S.I. 2013/160
	1st April 2013	S.I. 2013/671
	1st December 2013	S.I. 2013/2896
	1st April 2014	S.I. 2014/39
Section 105 (partially)	1st April 2013	S.I. 2013/671
	1st July 2013	S.I. 2013/671
Section 105 (remainder)	1st April 2014	S.I. 2014/39
Section 106 (partially)	1st April 2013	S.I. 2013/671
Section 106 (remainder)	1st April 2014	S.I. 2014/39
Section 107 (partially)	1st April 2013	S.I. 2013/671
Section 107 (remainder)	1st July 2013	S.I. 2013/671
Section 108 (partially)	1st November 2012	S.I. 2012/2657
Section 108 (remainder)	1st April 2013	S.I. 2013/671
Sections 109 to 114	1st April 2013	S.I. 2013/671
Section 115	1st April 2014	S.I. 2014/39
Section 116 (partially)	1st April 2013	S.I. 2013/160
Section 116 (remainder)	1st December 2013	S.I. 2013/2896
Section 117 (partially)	1st April 2013	S.I. 2013/160
	1st December 2013	S.I. 2013/2896
	1st April 2014	S.I. 2014/39
Section 118 (partially)	1st April 2013	S.I. 2013/160

Provision	Date of Commencement	S.I. No.
Section 118 (remainder)	1st April 2014	S.I. 2014/39
Section 119 (partially)	1st April 2013	S.I. 2013/160
Section 119 (remainder)	1st April 2014	S.I. 2014/39
Sections 120 to 123 (partially)	1st September 2013	S.I. 2013/671
Sections 120 to 123 (remainder)	1st April 2014	S.I. 2014/39
Sections 124 to 126	1st March 2014	S.I. 2014/39
Section 127	1st December 2013	S.I. 2013/2896
Section 144 (partially)	1st November 2012	S.I. 2012/2657
Section 147 (partially)	1st October 2012	S.I. 2012/1831
Section 147 (remainder)	1st April 2013	S.I. 2013/160
Section 148 (partially)	1st November 2012	S.I. 2012/2657
Section 148 (remainder)	1st April 2013	S.I. 2013/671
Section 149	1st November 2012	S.I. 2012/2657
Section 150 (partially)	1st July 2012	S.I. 2012/1319
	1st November 2012	S.I. 2012/2657
	1st April 2013	S.I. 2013/160
Section 151 (partially)	1st October 2012	S.I. 2012/1831
	1st April 2013	S.I. 2013/160
Sections 152 and 153	1st April 2013	S.I. 2013/160
Section 154	1st October 2012	S.I. 2012/1831
Section 156 (partially)	1st November 2012	S.I. 2012/2657
	1st April 2013	S.I. 2013/671
Section 157	1st April 2013	S.I. 2013/160
Section 158	1st October 2012	S.I. 2012/1831
Section 159 (partially)	1st April 2013	S.I. 2013/671
Section 160	1st July 2012	S.I. 2012/1319
Sections 161 and 162	1st April 2013	S.I. 2013/160
Section 163 (partially)	1st April 2013	S.I. 2013/160
	1st April 2013	S.I. 2013/671

Provision	Date of Commencement	S.I. No.
Section 164 (partially)	1st October 2012	S.I. 2012/1831
Section 164 (remainder)	1st April 2013	S.I. 2013/671
Section 165	1st October 2012	S.I. 2012/1831
Section 166	1st November 2012	S.I. 2012/2657
Section 167	1st April 2013	S.I. 2013/160
Sections 168 to 172	1st April 2013	S.I. 2013/671
Section 173 (partially)	1st November 2012	S.I. 2012/2657
Section 173 (remainder)	1st April 2013	S.I. 2013/671
Sections 174 to 178	1st November 2012	S.I. 2012/2657
Section 181 (partially)	1st October 2012	S.I. 2012/1831
Section 181 (remainder)	1st April 2013	S.I. 2013/160
Sections 182 to 189	1st April 2013	S.I. 2013/160
Section 190(1) to (8) and (10)	1st April 2013	S.I. 2013/160
Sections 191 to 200	1st April 2013	S.I. 2013/160
Section 201	1st July 2012	S.I. 2012/1319
Sections 202 to 206	1st April 2013	S.I. 2013/160
Section 207 (partially)	1st July 2012	S.I. 2012/1319
Section 207 (remainder)	1st April 2013	S.I. 2013/160
Sections 209 to 211	1st August 2012	S.I. 2012/1319
Section 212 (partially)	1st October 2012	S.I. 2012/1831
Section 212 (remainder)	1st August 2012	S.I. 2012/1319
Sections 213 to 218	1st August 2012	S.I. 2012/1319
Sections 220 and 221	1st August 2012	S.I. 2012/1319
Section 222	1st December 2012	S.I. 2012/2657
Section 223 (partially)	1st August 2012	S.I. 2012/1319
	1st October 2012	S.I. 2012/1831
Section 226 (partially)	1st December 2012	S.I. 2012/2657
	9th June 2014	S.I. 2014/1454
Section 227	1st July 2012	S.I. 2012/1319

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Sections 228 and 229	1st December 2012	S.I. 2012/2657
Section 230 (partially)	1st August 2012	S.I. 2012/1319
Section 230 (remainder)	1st December 2012	S.I. 2012/2657
Section 231	1st July 2012	S.I. 2012/1319
Sections 232 to 277	1st April 2013	S.I. 2013/160
Section 278	1st July 2012	S.I. 2012/1319
Section 279	31st October 2012	S.I. 2012/1831
Section 280	1st April 2013	S.I. 2013/160
Section 281	1st October 2012	S.I. 2012/1831
Section 282	1st April 2013	S.I. 2013/160
Section 283	1st July 2012	S.I. 2012/1319
Sections 284 to 287	1st April 2013	S.I. 2013/160
Section 288 (partially)	1st July 2012	S.I. 2012/1319
	1st April 2013	S.I. 2013/160
Section 288 (remainder)	1st April 2014	S.I. 2014/39
Section 289 (partially)	1st July 2012	S.I. 2012/1319
	1st April 2013	S.I. 2013/671
Section 289 (remainder)	1st April 2014	S.I. 2014/39
Section 290 (partially)	1st October 2012	S.I. 2012/1831
Section 290 (remainder)	1st April 2013	S.I. 2013/160
Section 291	1st October 2012	S.I. 2012/1831
Sections 292 and 293	1st April 2013	S.I. 2013/160
Section 294	1st October 2012	S.I. 2012/1831
Sections 295 and 296 (partially)	1st October 2012	S.I. 2012/1831
Sections 295 and 296 (remainder)	1st April 2013	S.I. 2013/160
Section 297 (partially)	1st February 2013	S.I. 2012/2657
	1st April 2013	S.I. 2013/160
Section 298	1st October 2012	S.I. 2012/1831
Section 299	1st June 2012	S.I. 2012/1319

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Sections 300 to 302 (partially)	1st July 2012	S.I. 2012/1319
	1st October 2012	S.I. 2012/1831
Sections 300 to 302 (remainder)	1st April 2013	S.I. 2013/160
Schedule 1 (partially)	1st October 2012	S.I. 2012/1831
Schedule 1 (remainder)	1st April 2013	S.I. 2013/160
Schedule 2 (partially)	1st October 2012	S.I. 2012/1831
Schedule 2 (remainder)	1st April 2013	S.I. 2013/160
Schedule 3	1st April 2013	S.I. 2013/160
Schedule 4 (partially)	1st July 2012	S.I. 2012/1319
	1st October 2012	S.I. 2012/1831
	1st February 2013	S.I. 2012/2657
Schedule 4 (remainder)	1st April 2013	S.I. 2013/160
Schedule 5 (partially)	1st October 2012	S.I. 2012/1831
	1st April 2013	S.I. 2013/160
Schedule 6 (partially)	1st July 2012	S.I. 2012/1319
Schedule 6 (remainder)	1st October 2012	S.I. 2012/1831
Schedule 7	1st April 2013	S.I. 2013/160
Schedule 8	1st November 2012	S.I. 2012/2657
Schedule 9	1st April 2013	S.I. 2013/160
Schedule 10	1st November 2012	S.I. 2012/2657
Schedule 11 (partially)	1st April 2013	S.I. 2013/671
Schedule 11 (remainder)	1st July 2013	S.I. 2013/671
Schedule 12 (partially)	1st September 2013	S.I. 2013/671
Schedule 12 (remainder)	1st April 2014	S.I. 2014/39
Schedule 13 (partially)	1st July 2012	S.I. 2012/1319
	1st November 2012	S.I. 2012/2657
	1st April 2013	S.I. 2013/160
Schedule 15 (partially)	1st July 2012	S.I. 2012/1319
	1st August 2012	S.I. 2012/1319

Provision	Date of Commencement	S.I. No.
Schedule 15 (remainder)	1st December 2012	S.I. 2012/2657
Schedules 16, 17, 18 and 19	1st April 2013	S.I. 2013/160
Schedule 20, Part 1	1st July 2012	S.I. 2012/1319
Schedule 20, Part 2	31st October 2012	S.I. 2012/1831
Schedule 20, Part 3	1st April 2013	S.I. 2013/160
Schedule 21 (partially)	1st February 2013	S.I. 2012/2657
	1st April 2013	S.I. 2013/160
Schedules 22 and 23 (partially)	1st July 2012	S.I. 2012/1319
	1st October 2012	S.I. 2012/1831
Schedules 22 and 23 (remainder)	1st April 2013	S.I. 2013/160

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