



Department  
of Health

# Post-legislative assessment of the Health Act 2009

Memorandum to the House of Commons  
Health Select Committee

CM 8908





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Memorandum to the House of Commons  
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 Act 2009 (the 2009 Act). It has been prepared by the Department of Health for submission to the Health Committee of the House of Commons within five years of Royal Assent to the Act, in keeping with the Government's policy on post-legislative scrutiny. It does not cover aspects of the Act that are within the competence of the devolved administrations.

## OBJECTIVE

2. The Act falls into three main Parts. Its objectives were:

### Part 1: Quality and delivery of NHS services in England

- to establish a framework for the NHS Constitution;
- to require NHS providers to publish quality accounts;
- to enable direct payments for health care to be made to patients (initially as part of a pilot scheme); and
- to provide a power for the payment of prizes to promote innovation in the provision of health services in England.

### Part 2: Powers in relation to health bodies

- to enable the de-authorisation of foundation trusts and the appointment of trust special administrators to foundation trusts, NHS trusts and primary care trusts; and
- to make provision relating to the suspension of Ministerial and other

appointees to NHS and other health bodies.

### Part 3: Miscellaneous

- to make miscellaneous provisions, relating to:
  - the display of tobacco products and the sale of such products from vending machines;
  - pharmaceutical services;
  - income to mental health foundation trusts from private patients;
  - payments in respect of the costs of optical appliances;
  - a complaints procedure for privately arranged or funded adult social care; and
  - the disclosure of information relating to general medical practitioners and dental practitioners by Her Majesty's Revenue and Customs.

## IMPLEMENTATION

3. Details of the commencement dates set so far are given in Annex A. Most of the provisions of the Act came into force at various dates between 2010 and 2012. In addition, 6 April 2015 was set in 2010 for some of the provisions on tobacco to come fully into force. Details of provisions which have not been commenced are given in later chapters.

## OVERALL ASSESSMENT

4. Broadly speaking, the Act achieved its objectives, although some of its provisions have since been modified by later Acts, as described in later chapters of this memorandum.

## THE REST OF THIS MEMORANDUM

5. The rest of this memorandum considers each Part of the Act in more detail, with information about key uses of the delegated powers created by the Act, and about legal issues that have arisen in relation to the Act and other reviews of the Act, where the Department is aware of them.

# Part 1: Quality and Delivery of NHS Services in England

## OBJECTIVES

1.1 Part 1 of the Act implemented the elements of the NHS Next Stage Review (led by Lord Darzi of Denham) that required primary legislation.<sup>1</sup> It therefore included provisions on:

### The NHS Constitution

- Specified bodies (NHS bodies, providers of primary care services, and voluntary organisations providing NHS care in England) were put under a duty to have regard to the NHS Constitution, and the Secretary of State was given the duties of:
  - ensuring the NHS Constitution and Handbook continue to be available to patients, staff and members of the public;
  - reviewing, and publishing any revisions to, the NHS Constitution at least every ten years;
  - making any changes to the guiding principles in regulations;
  - undertaking appropriate consultation (with patients, public, staff, bodies representing patients, bodies representing staff, carers and local authorities, NHS bodies and NHS service providers) in respect of any changes to the NHS Constitution;

- reviewing, and publishing any revisions to, the handbook to the NHS Constitution at least every three years; and
- reporting on the effect of the NHS Constitution at least every three years.

### Quality accounts

- All healthcare providers working for or on behalf of the NHS were placed under a legal requirement to publish an annual quality account. The Secretary of State was given power to make regulations exempting prescribed persons, or the providers of prescribed services, from this requirement. The Secretary of State was also given a power to make regulations determining the form, content and timetable for publication of a quality account.

### Direct payments

- The Act enabled the Secretary of State to make monetary payments to patients, with their consent, in lieu of providing them with health care services, so that they could purchase services directly from a variety of providers, including providers in the voluntary sector. Initially, the power would apply to pilot schemes only. The Act also gave the Secretary of State power to make regulations governing the operation of schemes; required him to make provision in regulations for a review of pilot schemes;

<sup>1</sup> The NHS Next Stage Review Final Report, *High Quality Care for All*, was published on 30 June 2008.

and created an order-making power that could be used to make direct payments more generally available, by removing the requirement for them to be made only as part of pilot schemes.

### Innovation

- The Act gave the Secretary of State a power to make payments as prizes to promote innovation in the provision of health services.

## IMPLEMENTATION

1.2 The provisions on the NHS Constitution and on direct payments came fully into force on 19 January 2010, as did those on quality accounts on 1 April 2010. Section 14, on innovation prizes, was not brought into force, but prizes were awarded under other powers.<sup>2</sup>

## DELEGATED POWERS

1.3 Under the powers provided by the Act in relation to the NHS Constitution:

- the Department of Health published revised versions of the NHS Constitution in 2010, 2012 and 2013;<sup>3</sup>
- the Secretary of State for Health published the first report on the effect of the NHS Constitution in July 2012;<sup>4</sup>
- regulations revised some of the principles in the NHS Constitution with effect from 1 April 2013.<sup>5</sup>

2 Details were reported in *Innovation Health and Wealth One Year On* (December 2012) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/213204/Creating-Change-IHW-One-Year-On-FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213204/Creating-Change-IHW-One-Year-On-FINAL.pdf)

3 The most recent edition is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/170656/NHS\\_Constitution.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170656/NHS_Constitution.pdf)

4 <https://www.gov.uk/government/publications/report-on-the-effect-of-the-nhs-constitution>

5 The National Health Service (Revision of NHS Constitution Principles) Regulations 2013, SI 2013/317.

1.4 Regulations on quality accounts came into force on 1 April 2010. These set out the detail of how providers of NHS services should publish annual reports on the quality of their services and exempted small providers and primary care and community services from the requirement to produce such quality accounts.<sup>6</sup> The regulations have been amended twice. The exemption for community services was removed, the exemption for NHS continuing care was added, and other detailed changes were made, with effect from 1 April 2011.<sup>7</sup> NHS trusts and foundation trusts were put under a duty to include a range of additional prescribed information from 1 April 2013.<sup>8</sup>

1.5 Regulations made under the power on direct payments came into force on 1 June 2010 and allowed the piloting of direct payment schemes for health care or mental health after-care. They also required a review of each pilot scheme to take place.<sup>9</sup> In the light of positive evidence from the reviews, an order was made repealing from 1 August 2013 the requirement in primary legislation for direct payments to be made only as part of a pilot scheme.<sup>10</sup> From the same date, updated regulations on how direct payments are to operate came into force.<sup>11</sup>

6 The National Health Service (Quality Accounts) Regulations 2010, SI 2010/279.

7 By the National Health Service (Quality Accounts) (Amendment) Regulations 2011, SI 2011/269.

8 By the National Health Service (Quality Accounts) (Amendment) Regulations 2012, SI 2012/3081.

9 The National Health Service (Direct Payments) Regulations 2010, SI 2010/1000.

10 The National Health Service (Direct Payments) (Repeal of Pilot Schemes Limitation) Order 2013, SI 2013/1563.

11 The National Health Service (Direct Payments) Regulations 2013, SI 2013/1617. Minor amendments to these regulations were made by the National Health Service (Direct Payments) (Amendment) Regulations 2013, SI 2013/2354, which came into force on 14 October 2013.

## LEGAL ISSUES

1.6 None.

## OTHER REVIEWS

1.7 In addition to the developments already summarised above, the Health and Social Care Act 2012 (the 2012 Act) made the following changes, which came fully into force on 1 April 2013:

### The NHS Constitution

The 2012 Act created new duties:

- on the Secretary of State (in exercising functions relating to the health service), new bodies established by or under the Act, providers of secondary care and public health services, and local authorities (in relation to their public health functions under the 2012 Act) to have regard to the NHS Constitution; and
- on the NHS Commissioning Board (generally known as NHS England) and on each clinical commissioning group to act with a view to securing that health services are provided in a way which promotes the NHS Constitution and to promote awareness of the NHS Constitution among patients, staff and members of the public.

### Direct payments

The 2012 Act amended the 2009 provisions on direct payments, principally to specify that the bodies that can make direct payments include the NHS Commissioning Board, a clinical commissioning group and a local authority.

### Innovation

The 2012 Act placed duties (now set out in sections 13K and 14X of the NHS Act 2006) on NHS England and each clinical commissioning group to promote innovation

in the provision of health services. NHS England was also given power to make payments as prizes to promote innovation in the provision of health services. Prizes since 1 April 2013 have been awarded under that power.

## ASSESSMENT

1.8 The provisions in Part 1 of the Act on the NHS Constitution, quality accounts and direct payments met their objectives. Following successful pilot schemes, the provisions on direct payments have provided the basis for making such payments more widely available through the NHS.

# Part 2: Powers in Relation to Health Bodies

## OBJECTIVES

2.1 The objectives of Part 2 of the Act were:

- to create powers to de-authorise a foundation trust (that is, to turn it into a NHS trust);
- to create a failure regime for state-owned providers that reflected the Government's obligations to ensure service continuity and protect public assets.

To achieve this, Part 2 provided powers to appoint a trust special administrator to a foundation trust, NHS trust or primary care trust, where earlier attempts to improve performance had failed and the continuation of the body in its current situation was not considered to be in the interests of the health service. It also replaced the provisions, introduced by the Health and Social Care (Community Health and Standards) Act 2003, which had made available for foundation trusts a modified version of the statutory provisions for winding up companies (Part 4 of the Insolvency Act 1986);

- to provide powers for the suspension of the chairs and other members of NHS and other health bodies.

## IMPLEMENTATION

2.2 Part 2 was commenced as follows:

- section 15(1) came into force on 19 January 2010 to the extent necessary to enable Monitor to consult on proposed guidance on the matters that it wished to consider in determining whether to issue a de-authorisation notice. Following the change of government later that year, the policy on de-authorisation changed and the relevant provisions were subsequently repealed (see below);
- sections 16 and 17 on trust special administration (and sections 15(2) and 18 and Schedule 2 in as far as they related to sections 16 and 17) came into force on 15 February 2010;
- the provisions on suspension of appointments (section 19 and Schedule 3) came into force on 19 January 2010.

## DELEGATED POWERS

2.3 As noted above, the powers created by Part 2 of the Act to de-authorise a foundation trust were not fully commenced. They were not used and, as explained below, have now been repealed.

2.4 The powers created by Part 2 of the Act to appoint a trust special administrator

have been used in relation to one NHS trust<sup>12</sup> and, after amendments made to the power by the Health and Social Care Act 2012 (see below), one NHS foundation trust.<sup>13</sup>

2.5 Various sets of regulations dealing with membership and procedures for the bodies affected by the power to suspend chairs and members were amended in the light of Part 2.<sup>14</sup>

## LEGAL ISSUES

2.6 The use of the special administration powers was the subject of a judicial review, challenging the recommendation of the trust special administrator and the subsequent decision by the Secretary of State about the future of South London Healthcare NHS Trust to limit accident & emergency and maternity services at neighbouring Lewisham Hospital. In July 2013, the High Court ruled that the administrator and the Secretary of State did not have the legal power to have made respectively recommendations and decisions affecting services at a hospital that was not part of the trust in administration. The Court's decision was upheld by the Court of Appeal on 29 October 2013, following the Secretary of State's decision to appeal against the earlier Court decision. Following the Courts' decisions, section 120 of the Care Act 2014 makes improvements to the trust special administrator's regime,

12 See the South London Healthcare National Health Service Trust (Appointment of Trust Special Administrator) Order 2012, SI 2012/1806, and the South London Healthcare National Health Service Trust (Extension of Time for Trust Special Administrator to Provide a Draft Report) Order 2012, SI 2012/1824.

13 See the Mid Staffordshire NHS Foundation Trust (Appointment of Trust Special Administrator) Order 2013, SI 2013/838, and 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.

14 For example, by the National Health Service Bodies (Membership and Procedure) Amendment Regulations 2010, SI 2010/2538.

including extending its remit to allow a trust special administrator to make, and the Secretary of State or Monitor to accept, recommendations that may apply to services beyond the trust under administration, where they are necessary and consequential.

## OTHER REVIEWS

2.7 Following the general election in 2010, the incoming Government set out its plans for the NHS in *Equity and Excellence: Liberating the NHS* (July 2010).<sup>15</sup> These included enabling the abolition of NHS trusts. In the light of this, it became undesirable to create further NHS trusts by de-authorising foundation trusts. Accordingly, the provisions on de-authorisation of foundation trusts in the 2009 Act were repealed by section 173 of the Health and Social Care Act 2012, which came fully into force on 1 April 2013. The 2012 Act created a different regime for dealing with failing foundation trusts.

2.8 More recently, in the light of experience and the Courts' decisions referred to above, section 120 of the Care Act 2014 has made detailed changes to improve the working of the trust special administration regime.

2.9 Some of the bodies whose chairs and members Part 2 provided powers to suspend have been abolished following review, including Strategic Health Authorities, the Appointments Commission and the Alcohol Education and Research Council. The powers, however, remain in place for other bodies, including special health authorities, the Human Fertilisation and Embryology Authority and the Human Tissue Authority.

15 <https://www.gov.uk/government/publications/liberating-the-nhs-white-paper>

## *ASSESSMENT*

2.10 Part 2 of the Act achieved its objective of providing powers to act where an NHS provider is failing and to suspend chairs and members of certain NHS and health bodies. The former power has since been strengthened, through the Health and Social Care Act 2012 and the Care Act 2014. It has not proved necessary to use the latter power, but it remains available for use if needed.

## Part 3: Miscellaneous

### TOBACCO

#### OBJECTIVES

3.1 Sections 20-24 of the Act amended earlier legislation on tobacco control<sup>16</sup> so that further steps could be taken to protect public health.

#### IMPLEMENTATION

3.2 Section 22, which created a power for the Secretary of State by regulations to prohibit the sale of tobacco from vending machines, came fully into force on 1 October 2011.

3.3 The prohibition of displays of tobacco products is being implemented in two phases. Initially the dates set were 1 October 2011 for phase one (affecting sale of tobacco in large shops) and 1 October 2013 for phase two (affecting sales in small shops and all other businesses); but those dates were amended to 6 April 2012 and 6 April 2015. (See below, under *Other reviews*).

#### DELEGATED POWERS

3.4 Regulations prohibiting the sale of tobacco from vending machines, under the power created by section 22 of the Act, came into force on 1 October 2011.<sup>17</sup>

16 The Tobacco Advertising and Promotion Act 2002 and the Children and Young Persons (Protection from Tobacco) Act 1991.

17 The Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010, SI 2010/864.

3.5 Regulations under section 21 of the Act, setting requirements for the display of tobacco product prices, came into force on 1 October 2011 for large shops and on 1 October 2013 for other places.<sup>18</sup>

3.6 Further sets of regulations were made under section 21:

- one set, providing exemptions to the general prohibition on the display of tobacco products, was due to come into force on 1 October 2011 for large shops other than duty free stores and on 1 October 2013 for all other retailers of tobacco;<sup>19</sup>
- another set, providing exemptions for specialist tobacconists to the general prohibition on the display of tobacco products, was due to come into force on 1 October 2013;<sup>20</sup>
- subsequently the coming into force dates were changed.<sup>21</sup> The provisions originally due to come into force on 1 October 2011 instead came into force on 6 April 2012; and those due to come into force on 1 October 2013 will instead come into force on 6 April 2015;
- the exemptions to the general prohibition (in SI 2010/445) were extended and

18 The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010, SI 2010/863.

19 The Tobacco Advertising and Promotion (Display) (England) Regulations 2010, SI 2010/445.

20 The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010, SI 2010/446.

21 By the Tobacco Advertising and Promotion (Display and Specialist Tobacconists) (England) (Amendment) Regulations 2011, SI 2011/1256.

made more practical for shopkeepers, by increasing the size of temporary displays allowed when serving customers and restocking and by adding to the circumstances in which such displays can occur.<sup>22</sup>

## LEGAL ISSUES

3.7 The prohibition of sales from vending machines was challenged unsuccessfully by judicial review before the High Court and Court of Appeal. A judicial review challenge to the tobacco display controls before the High Court was withdrawn shortly before the hearing.

## OTHER REVIEWS

3.8 As noted above, secondary legislation made before the 2010 general election originally provided for provisions on tobacco display, both in the Act and in regulations made under the powers that it created, to come into force on 1 October 2011 for large shops and 1 October 2013 for all others. Following a review by the new Government, the Secretary of State for Health announced in March 2011 that implementation would be deferred and made more practical for shopkeepers. This was achieved as described above.

3.9 In line with the new Government's regulatory policies, the amended regulations (SI 2012/677) included duties on the Secretary of State to review the regulations and publish a report which must set out the extent to which the objectives of the legislation have been achieved, whether the objectives remain appropriate and, if so, the extent to which the objectives could be achieved with less regulation. The first report must be published before 6 April 2020 (that

is, within five years of the date when the regulations come fully into effect).

## ASSESSMENT

3.10 Sections 20-24 achieved their objective of enabling further public health measures to be taken in relation to tobacco. As explained above, a review of the effectiveness of the tobacco display measures must be published before 6 April 2020.

## PHARMACEUTICAL SERVICES IN ENGLAND

### OBJECTIVES

3.11 Sections 25-29 of the Act introduced:

- changes to the way in which primary care trusts determine applications by contractors to provide NHS pharmaceutical services; and
- new provisions enabling primary care trusts to take action against contractors for breaches of the arrangements for providing those services.

They also amended earlier legislation to enable primary care trusts, not only to commission, but also to provide, local pharmaceutical services in prescribed circumstances.

### IMPLEMENTATION

3.12 Section 25, requiring primary care trusts to develop and publish statements relating to the need for pharmaceutical services in their areas, came fully into force on 24 May 2010. The remaining provisions on pharmaceutical services came into force on 1 September 2012.

<sup>22</sup> The Tobacco Advertising and Promotion (Display and Specialist Tobacconists) (England) (Amendment) Regulations 2012, SI 2012/677.

## DELEGATED POWERS

3.13 Two sets of regulations have been made under the power created by section 25. The first, dealing with pharmaceutical needs assessments, came into force on 24 May 2010,<sup>23</sup> and the second, dealing with market entry and performance management, on 1 September 2012.<sup>24</sup> The powers relating to local pharmaceutical services have not been used.

## LEGAL ISSUES

3.14 None.

## OTHER REVIEWS

3.15 Following the general election in 2010 the incoming Government set out its plans for the NHS in *Equity and Excellence: Liberating the NHS* (July 2010),<sup>25</sup> which included the abolition of primary care trusts. Under the Health and Social Care Act 2012, from 1 April 2013, the NHS Commissioning Board (generally known as NHS England) took responsibility for commissioning primary care services, including pharmaceutical services, and local authority Health and Wellbeing Boards took responsibility for developing, updating and maintaining pharmaceutical needs assessments. Previous primary and secondary legislation on pharmaceutical services was amended to allow for that.

## ASSESSMENT

3.16 Sections 25-29 of the Act achieved their objective of providing a basis for various

23 The National Health Service (Pharmaceutical Services and Local Pharmaceutical Services) (Amendment) Regulations 2010, SI 2010/914.

24 The National Health Service (Pharmaceutical Services) Regulations 2012, SI 2012/1909.

25 <https://www.gov.uk/government/publications/liberating-the-nhs-white-paper>

new arrangements in pharmaceutical services.

## PRIVATE PATIENT INCOME

### OBJECTIVE

3.17 Section 33 of the Act amended the NHS Act 2006 so that a mental health foundation trust could earn up to 1.5% of its total income in any one financial year from charges to private patients.

### IMPLEMENTATION

3.18 Section 33 came into force on 19 January 2010.

### DELEGATED POWERS

3.19 Section 33 did not create powers to make secondary legislation.

### LEGAL ISSUES

3.20 None.

### OTHER REVIEWS

3.21 *Equity and Excellence: Liberating the NHS* set out the Government's intention of "abolishing the arbitrary cap on the amount of income foundation trusts may earn from [non-NHS] sources". The cap was removed for all foundation trusts on 1 October 2012, when section 165 of the Health and Social Care Act 2012 came into force.

### ASSESSMENT

3.22 Section 33 achieved its objective, but has since been repealed as part of giving foundation trusts new freedoms.

## OPTICAL APPLIANCES

### OBJECTIVE

3.23 The objective of section 34 of the Act was to repeal a provision, introduced to the NHS Act 2006 by the Health Act 2006, which had the unintended effect of obliging the Secretary of State to make regulations to meet or to contribute to the cost of optical appliances (glasses or contact lenses) for all persons aged 60, regardless of income.

### IMPLEMENTATION

3.24 Section 34 was brought into force (by section 40(7) of the Act) two months after Royal Assent.

### DELEGATED POWERS, LEGAL ISSUES AND OTHER REVIEWS

3.25 Section 34 created no new delegated powers. The Department of Health is not aware of any legal issues which have arisen in connection with section 34, or of any other reviews of section 34.

### ASSESSMENT

3.26 Section 34 achieved its objective of correcting an unintended consequence in the Health Act 2006.

## ADULT SOCIAL CARE

### OBJECTIVE

3.27 The objective of section 35 of the Act was to establish a new system so that a “Local Commissioner” (as defined in the Local Government Act 1974), generally known as the Local Government Ombudsman (LGO), could investigate complaints about privately funded or privately arranged adult social care.

### IMPLEMENTATION

3.28 Section 35, and the Schedule that it introduced, came into force on 1 October 2010.

### DELEGATED POWERS

3.29 Section 35 and the associated Schedule did not create new powers to make secondary legislation.

### LEGAL ISSUES

3.30 None.

### OTHER REVIEWS

3.31 None.

### ASSESSMENT

3.32 Section 35 achieved its objective of creating a system through which complaints about privately funded or privately arranged adult social care can be investigated by the LGO. We understand from the LGO that, since the introduction of the new system, there has been a year on year increase in the number of overall complaints the LGO receives about adult social care generally. The LGO suggests that an unintended, but welcome, consequence of the widening of the LGO’s jurisdiction to privately funded or privately arranged care may be that more people are aware of where to go with unresolved complaints about their social care, with the extended jurisdiction providing clarity in instances where care is commissioned by a council but provided by a private provider.

3.33 Information from the LGO shows that a relatively low number of complaints about privately funded or privately arranged social care reach the LGO. The LGO’s *Review of Adult Social Care Complaints 2013* reports that 215 complaints and enquiries relating to

privately funded or privately arranged social care were received, accounting for 9% of all adult social care complaints. This share of complaints has remained constant since the LGO's jurisdiction was extended by section 35 of the 2009 Act.

## **DISCLOSURE OF INFORMATION**

### *OBJECTIVE*

3.34 The objective of section 36 of the Act was to allow information relating to the income and expenses of general medical practitioners and dental practitioners held by Her Majesty's Revenue and Customs (HMRC) to be disclosed to specified persons including the Secretary of State. The information is collected by HMRC for the purposes of its functions relating to income tax and may only be disclosed in the form of a summary or collection of information in a manner which does not enable information relating to a particular person to be ascertained from it.

### *IMPLEMENTATION*

3.35 Section 36 came into force on 19 January 2010.

### *DELEGATED POWERS*

3.36 Section 36 did not create a power to make secondary legislation.

### *LEGAL ISSUES*

3.37 None.

### *OTHER REVIEWS*

3.38 None, but with effect from 1 April 2013, section 36 was amended by the Health and Social Care Act 2012 to include the NHS Commissioning Board in the list of persons

to whom information relating to the earnings and expenses of GPs and dental practitioners can be disclosed by HMRC. This is because the Board needs access to such information in connection with its function of setting the rate of pay for doctors and dentists.

### *ASSESSMENT*

3.39 Section 36 achieved its objective of enabling HMRC to disclose information to the Secretary of State.

## Annex A: Commencement of Provisions in the Act

Section 40 of the Act brought certain provisions in the Act into force on the day of Royal Assent or two months thereafter. Other provisions were commenced by order. The table appended to the most recent commencement order made under the Act (SI 2012/2647) has been updated to include the provisions commenced by that order and is reproduced below.

The table deals only with provisions commenced by the Secretary of State. Powers to commence certain provisions rests with Welsh Ministers and the Department of Health, Social Services and Public Safety in Northern Ireland, as set out in section 40(2) and (3) of the Act. In relation to those provisions, the statement that a provision has been commenced “partially” may mean that the remainder is for those other authorities to commence.

| <b>Provision</b>          | <b>Date of Commencement</b> | <b>S.I. No.</b>                               |
|---------------------------|-----------------------------|---|
| Sections 1 to 7           | 19th January 2010           | 2010/30 (C. 5)                                |
| Sections 8 to 10          | 1st April 2010              | 2010/30 (C. 5)                                |
| Sections 11 to 13         | 19th January 2010           | 2010/30 (C. 5)                                |
| Section 15(1) (partially) | 19th January 2010           | 2010/30 (C. 5)                                |
| Section 15(2) (partially) | 15th February 2010          | 2010/30 (C. 5)                                |
| Sections 16 and 17        | 15th February 2010          | 2010/30 (C. 5)                                |
| Section 18 (partially)    | 15th February 2010          | 2010/30 (C. 5)                                |
| Section 19 (partially)    | 19th January 2010           | 2010/30 (C. 5)                                |
| Section 20                | 6th April 2015              | 2010/1068 (C. 70)<br>and 2011/1255<br>(C. 49) |
| Section 21 (partially)    | 6th April 2012              | 2010/1068 (C. 70)<br>and 2011/1255<br>(C. 49) |
| Section 21 (partially)    | 6th April 2015              | 2010/1068 (C. 70)<br>and 2011/1255<br>(C. 49) |

| <b>Provision</b>   | <b>Date of Commencement</b> | <b>S.I. No.</b>                         |
|--|-----------------------------|---|
| Section 22   | 1st October 2011            | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Section 24 (partially)   | 6th April 2012              | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Section 24 (partially)   | 6th April 2015              | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Section 25 (partially)   | 18th March 2010             | 2010/779 (C.52)                         |
| Section 25   | 24th May 2010               | 2010/779 (C. 52)                        |
| Section 26   | 1st September 2012          | 2012/1902 (C. 76)                       |
| Section 27   | 1st September 2012          | 2012/1902 (C. 76)                       |
| Section 28   | 1st September 2012          | 2012/1902 (C. 76)                       |
| Section 29   | 1st September 2012          | 2012/1902 (C. 76)                       |
| Section 33   | 19th January 2010           | 2010/30 (C. 5)                          |
| Section 35   | 1st October 2010            | 2010/1863 (C. 95)                       |
| Section 36   | 19th January 2010           | 2010/30 (C. 5)                          |
| Section 38 (partially)   | 1st October 2011            | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Section 38 (partially)   | 6th April 2012              | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Section 38 (partially)   | 1st September 2012          | 2012/1902 (C. 76)                       |
| Section 38 (partially)   | 31st October 2012           | 2012/2647 (C. 6)                        |
| Schedule 1   | 19th January 2010           | 2010/30 (C. 5)                          |
| Schedule 2 (partially)   | 15th February 2010          | 2010/30 (C. 5)                          |
| Paragraphs 1 to 13 of Schedule 3   | 19th January 2010           | 2010/30 (C. 5)                          |
| Paragraphs 18 and 19 (partially) of Schedule 3   | 19th January 2010           | 2010/30 (C. 5)                          |
| Paragraphs 2 (partially), 6 (partially), 7(5) and (6), 10, 11 (fully) and 12 (fully) of Schedule 4 | 6th April 2012              | 2010/1068 (C. 70) and 2011/1255 (C. 49) |

| <b>Provision</b>  | <b>Date of Commencement</b> | <b>S.I. No.</b>                         |
|---|-----------------------------|---|
| Paragraphs 2 (fully), 3 and 4 (partially) of Schedule 4 | 6th April 2015              | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Schedule 5  | 1st October 2010            | 2010/1863 (C. 95)                       |
| Schedule 6 (partially)                                  | 1st October 2011            | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Schedule 6 (partially)                                  | 6th April 2012              | 2010/1068 (C. 70) and 2011/1255 (C. 49) |
| Schedule 6 (partially)                                  | 1st September 2012          | 2012/1902 (C. 76)                       |
| Schedule 6 (partially)                                  | 31st October 2012           | 2012/2647 (C. 6)                        |







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