

2022 No. 734 (C. 45)

NATIONAL HEALTH SERVICE

**The Health and Care Act 2022 (Commencement No. 2 and
Transitional and Saving Provision) Regulations 2022**

Made - - - -

30th June 2022

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 186(6), (7), (9) and (11) of the Health and Care Act 2022(a).

PART 1

Citation and interpretation

Citation and interpretation

1.—(1) These Regulations may be cited as the Health and Care Act 2022 (Commencement No. 2 and Transitional and Saving Provision) Regulations 2022.

(2) In these Regulations—

“the 2006 Act” means the National Health Service Act 2006(b);

“the 2012 Act” means the Health and Social Care Act 2012(c);

“the 2022 Act” means the Health and Care Act 2022;

“the Authority” means the Special Health Authority established in accordance with article 2 of the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012(d);

“financial year” has the meanings given in section 14Z52(8) and 275(1) of the 2006 Act(e);

“predecessor clinical commissioning group”, in relation to an integrated care board, means—

(a) a clinical commissioning group whose area, as it was immediately before 1st July 2022, is wholly contained within the area of the integrated care board, or

(b) a clinical commissioning group in relation to which an integrated care board is a transferee specified in a transfer scheme made pursuant to section 14Z28 of the NHS Act 2006(f);

“successor integrated care board”, in relation to a clinical commissioning group, means—

(a) 2022 c. 31.

(b) 2006 c. 41.

(c) 2012 c. 7.

(d) S.I. 2012/901.

(e) Section 14Z52 of the 2006 Act is inserted by section 25 of the 2022 Act.

(f) Section 14Z28 was inserted by section 19 of the 2022 Act.

- (a) where the area of an integrated care board contains the entirety of a clinical commissioning group’s area as it was immediately before 1st July 2022, that integrated care board;
- (b) where the area of an integrated care board does not contain the entirety of a clinical commissioning group’s area as it was immediately before 1st July 2022—
 - (i) in relation to—
 - (aa) regulation 22 (transitional provision in relation to primary care services);
 - (bb) regulation 31 (transitional and saving provision: complaints about clinical commissioning groups); or
 - (cc) regulation 32 (transitional provision: applications to court in respect of children in secure accommodation),

(the “relevant regulation”)³², the integrated care board which has responsibility (within the meaning of section 14Z31 of the 2006 Act and the National Health Service (Integrated Care Boards: Responsibilities) Regulations 2022^(a)) for persons affected by any act or omission under the relevant regulation for which that clinical commissioning group, prior to its abolition, was responsible;
 - (ii) in relation to—
 - (aa) regulation 23 (transitional and saving provision: annual reports of clinical commissioning groups);
 - (bb) regulation 28 (transitional and saving provision: clinical commissioning group accounts);
 - (cc) regulation 30 (transitional provision: winding up of the affairs of clinical commissioning groups); or
 - (dd) regulation 33 (transitional provision: joint forward plans and joint capital resource use plans),

the integrated care board which is the primary transferee of the assets and liabilities of that clinical commissioning group specified in a transfer scheme made pursuant to section 14Z28 of the 2006 Act.

PART 2

Provisions coming into force on 1st July 2022

Provisions coming into force on 1st July 2022

- 2.** The following provisions of the 2022 Act come into force on 1st July 2022—
 - (a) the provisions set out in the Schedule to these Regulations;
 - (b) section 77 and Schedule 10, only in so far as they are required for the purposes of conducting a consultation in accordance with section 114C(2) of the 2012 Act^(b), including for the purposes of dealing with objections to the proposed NHS payment scheme received in accordance with section 114D of the 2012 Act^(c).

^(a) S.I. 2022/635.

^(b) 2012 c. 7. Section 114C(2) is inserted by paragraph 3 of Schedule 10 to the 2022 Act.

^(c) Section 114D is inserted by paragraph 3 of Schedule 10 to the 2022 Act.

PART 3

Provision coming into force on 31st July 2022

Provision coming into force on 31st July 2022

3. Section 99 of the 2022 Act comes into force on 31st July 2022, only in so far as it inserts sections 277A(1) to (5) and (7), 277B and 277C into the 2012 Act.

PART 4

Provision coming into force on 30th August 2022

Provision coming into force on 30th August 2022

4. Section 178 of the 2022 Act comes into force on 30th August 2022.

PART 5

Transitional provision in relation to the Secretary of State's power to require commissioning of services

Transitional provision in relation to the Secretary of State's power to require commissioning of services

5.—(1) The following modification applies during the period beginning with 1st July 2022 and ending when section 13YB (directions in respect of functions relating to provision of services) of the 2006 Act(a) comes into force for all purposes.

(2) Section 3B(2) (Secretary of State's power to require commissioning of services) of the 2006 Act(b) is to be read as if the words "or by giving directions under section 13YB" were omitted.

PART 6

Transitional and saving provision in relation to the abolition of Monitor and the Authority

Transitional and saving provision: licensing criteria set by Monitor

6. Any criteria which—

- (a) have been set under section 86(1) (licensing criteria) of the 2012 Act; and
- (b) are in force immediately before 1st July 2022,

are to be treated on and after that date as if they were set by NHS England.

Transitional provision: investigations of Monitor by the Parliamentary Commissioner of Administration

7.—(1) The amendment made by paragraph 3 of Schedule 5 (abolition of Monitor and transfer of its functions) to the 2022 Act does not prevent the Parliamentary Commissioner Act 1967(c)

(a) Section 13YB is inserted by section 13(2) of the 2022 Act.

(b) Section 3B is inserted by section 15 of the 2012 Act. Subsection (2) is substituted by section 2(2) of the 2022 Act.

(c) 1967 c. 13.

(the “1967 Act”) from applying to an action taken by or on behalf of Monitor before 1st July 2022 (a “relevant action”).

(2) For the purposes of an investigation—

- (a) in respect of a relevant action; and
- (b) which is commenced on or after 1st July 2022,

Schedule 2 to the Parliamentary Commissioner Act 1967 applies as if it includes an entry for NHS England.

(3) Where—

- (a) an investigation in respect of a relevant action is concluded on or after 1st July 2022, and
- (b) section 10(2) of the 1967 Act^(a) would, had the investigation concluded before 1st July 2022, have required the Commissioner to send a report of the results of the investigation to the principal officer of Monitor,

the Commissioner must instead send such a report to the principal officer of NHS England.

(4) In this regulation, “Commissioner” has the meaning given by section 12(1) of the 1967 Act^(b).

Transitional provision: investigations of the Authority by the Health Service Commissioner

8.—(1) Where—

- (a) an investigation in respect of an action taken by or on behalf of the Authority before 1st July 2022 is concluded on or after 1st July 2022, and
- (b) section 14 of the Health Service Commissioners Act 1993^(c) (“the 1993 Act”) would, had the investigation concluded before 1st July 2022, have required the Commissioner to send a report of the results of the investigation to the Authority,

the Commissioner must instead send such a report to NHS England.

(2) In this regulation, “Commissioner” has the meaning given by section 1(2) of the 1993 Act^(d).

Transitional provision in relation to requests from Monitor to the Health and Social Care Information Centre to establish information systems

9.—(1) Paragraph (2) applies where, before 1st July 2022, Monitor has requested the Health and Social Care Information Centre^(e) (“the Information Centre”) to establish and operate a system for the collection or analysis of information under section 255 of the 2012 Act (powers to request Information Centre to establish information systems) and the request—

- (a) has not been complied with;
- (b) has been partially complied with; or
- (c) continues to be complied with.

(2) In the circumstances described in paragraph (1), the request is to be treated as a direction by NHS England to the Information Centre under section 254 of the 2012 Act (powers to direct

(a) Section 10 was amended by paragraph 5(2) to (6) of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(b) There are amendments to section 12(1), but none is relevant.

(c) 1993 c. 46. Section 14 was amended by S.I. 1996/970; paragraph 11(5) of Schedule 9 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43); S.I. 2004/1823; paragraphs 44 and 45(2) and (3) of Schedule 6 to the Public Services Ombudsman (Wales) Act 2005 (c. 10); section 12(6) of the Health Act 2009 (c. 21); section 201 of, and paragraph 70(2), (3), (4) and (5) of Schedule 5 to, the 2012 Act; and section 1(2) and (3) of the Health Service Commissioner for England (Complaint Handling) Act 2015 (c. 29).

(d) Section 1 was amended by S.I. 2004/1823 and paragraphs 29 and 30(2) to (4) of Schedule 6 to the Public Services Ombudsman (Wales) Act 2005.

(e) The Health and Social Care Information Centre (known as NHS Digital) is a body corporate established under section 252(1) of the 2012 Act.

Information Centre to establish information systems) to establish and operate a system for the collection or, as the case may be, analysis of the information.

(3) For the purposes of paragraph (2)—

- (a) section 254 of the 2012 Act is to be read as if subsection (3) and, insofar as it refers to NHS England(a), subsection (5), were omitted;
- (b) section 258 of the 2012 Act (information systems: supplementary) is to be read as if subsection (1) were omitted.

Transitional and saving provision: Monitor’s annual accounts and annual report

10.—(1) This regulation applies where, immediately before 1st July 2022, a duty (the “undischarged duty”) imposed under the following provisions of Schedule 8 to the 2012 Act had not been discharged in respect of any period before 1st July 2022—

- (a) paragraph 19 (Monitor annual accounts);
 - (b) paragraph 21(1) to (3) (Monitor annual report).
- (2) The provision which imposes the undischarged duty continues to apply—
- (a) so far as it relates to the undischarged duty; and
 - (b) where the duty is imposed on Monitor, as if the undischarged duty were imposed on NHS England.

Transitional and saving provision: the Authority’s annual accounts

11.—(1) This regulation applies where, immediately before 1st July 2022, a duty (the “undischarged duty”) imposed under the following provisions of Schedule 15 (accounts and audit) to the 2006 Act had not been discharged in relation to the Authority in respect of any period before 1st July 2022—

- (a) paragraph 3 (NHS bodies annual accounts);
 - (b) paragraph 5(3)(b) (transmission of annual accounts);
 - (c) paragraph 6(c) (auditing of certain Special Health Authority accounts).
- (2) The provision which imposes the undischarged duty continues to apply—
- (a) so far as it relates to the undischarged duty; and
 - (b) where the duty is imposed on the Authority, as if the undischarged duty were imposed on NHS England.

Transitional and saving provision: the Authority’s reports

12.—(1) This regulation applies where, immediately before 1st July 2022, the Authority had not complied with the duty to prepare an annual report in respect of any period before 1st July 2022 imposed under—

- (a) direction 8(b) (the “direction”) of the National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016(d), together with
- (b) regulation 14 of the National Health Service Trust Development Authority Regulations 2012(e) (the “2012 Regulations”).

(a) Paragraph 1 of Schedule 1 to the 2022 Act substitutes “NHS England” for references to “the Board” in section 254 of the 2012 Act.

(b) Paragraph 5(3) was amended by S.I. 2008/817.

(c) Paragraph 6 was amended by S.I. 2008/817.

(d) An electronic copy of these Directions is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/511610/Directions_2016.pdf.

(e) S.I. 2012/922. These Regulations are revoked by section 36 of the 2022 Act.

- (2) Regulation 14 of the 2012 Regulations continues to apply—
- (a) so far as it relates to the requirement to comply with the direction; and
 - (b) as if the requirement to comply with the direction (and, accordingly, to make the report) were imposed on NHS England.

Supplementary provision: general continuity

13.—(1) NHS England may do anything which appears necessary or appropriate for the winding up of the affairs of Monitor and the Authority.

- (2) Any—
- (a) act or omission; or
 - (b) other thing (including legal proceedings)—
 - (i) done; or
 - (ii) which, immediately before this provision comes into force, is in the process of being done,

by or in relation to Monitor or the Authority is to be treated as an act, omission or thing done or in the process of being done, and capable of being continued, by or in relation to NHS England.

(3) Paragraph (2) does not apply in relation to a complaint or an investigation described in regulation 13(8) of the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013(a).

- (4) Any reference to—
- (a) Monitor or the Authority in an agreement (whether written or otherwise); or
 - (b) the Authority in an instrument or other document,

made before this provision comes into force is to be read, in relation to any time after this provision comes into force, as a reference to NHS England.

PART 7

Transitional provision in relation to the financial control and reporting of certain NHS bodies

Saving provision: financial objectives

14. The amendment made by section 60 (financial objectives for NHS trusts) of the 2022 Act does not apply in relation to a financial objective which was set under paragraph 2(2) (financial obligations of NHS trusts) of Schedule 5 to the 2006 Act before 1st July 2022.

Transitional provision: consolidated accounts for NHS trusts and NHS foundation trusts

15.—(1) Section 65Z4(1) and (3) to (6) of the 2006 Act(b) applies in respect of the financial year ending 31st March 2022.

- (2) Any directions—
- (a) given under—
 - (i) in relation to the Authority, sections 7(1)(c) and 8(1) (functions of, and directions to, the Authority etc.) of the 2006 Act;
 - (ii) in relation to Monitor, paragraph 17(2) and (3) of Schedule 8 to the 2012 Act;

(a) S.I. 2013/500. Regulation 13(8) is inserted by regulation 21(4)(c)(iii) of these Regulations.
(b) Section 65Z4 is inserted by section 14 of the 2022 Act.
(c) Section 7(1) was substituted by section 21(2) of the 2012 Act.

- (b) which specify the form and content of consolidated annual accounts of NHS trusts and NHS foundation trusts; and
 - (c) which are in force immediately before 1st July 2022,
- are to be treated as if they were given to NHS England under section 65Z4(2) of the 2006 Act.

Saving provision: NHS trust annual reports

16. The amendments made by the following provisions of the 2022 Act do not apply in relation to an annual report under paragraph 12(1) (annual reports of NHS trusts) of Schedule 4 to the 2006 Act for the accounting year ending 31st March 2022—

- (a) section 54(3)(a) (oversight and support of NHS trusts);
- (b) paragraph 136 of Schedule 4 (integrated care system: minor and consequential amendments).

Saving provision: public benefit corporation forward planning documents

17. The amendments made by section 63(1) (accounts, reports and forward plans) of the 2022 Act do not apply in relation to a document prepared under paragraph 27 (public benefit corporation forward planning information) of Schedule 7 to the 2006 Act in respect of the financial year ending 31st March 2023.

Saving provision: accounts and audit directions

18. Despite the amendment made by section 87(3)(b)(iii) (tidying up provisions about the accounts of certain NHS bodies) of the 2022 Act, any directions which—

- (a) were given under any provision of Schedule 15 (accounts and audit) to the 2006 Act; and
- (b) are in force immediately before 1st July 2022,

continue in force on and after that date, and any power to revoke such directions which was exercisable immediately before 1st July 2022 under Schedule 15 taken together with section 273(1) (power to revoke directions etc.) of the 2006 Act continues to be exercisable in relation to those directions.

PART 8

Transitional provision in relation to the NHS payment scheme

Transitional provision: the national tariff and the NHS payment scheme

19.—(1) The following modifications apply during the period beginning with 1st July 2022 and ending when section 77 (the NHS payment scheme) of the 2022 Act comes into force for all purposes.

(2) In section 13SB(3)(b)(ii) (minimising conflicts between regulatory and other functions) of the 2006 Act(a), is to be read as if for “(NHS payment scheme)” there were substituted “(pricing)”.

(3) Except as provided in paragraph (4), in sections 116 to 127(b) of, and Schedule 12 to, the 2012 Act—

- (a) any reference to Monitor is to be read as a reference to NHS England;

(a) Section 13SB is inserted by section 34(2) of the 2022 Act.
(b) Section 77 of the 2022 Act will, once it comes into force for all purposes, cause Chapter 4 of Part 3 of the 2012 Act (which contains sections 116 to 127) to be replaced with the provisions set out in Schedule 10 of the 2022 Act.

- (b) any reference to a clinical commissioning group is to be read as a reference to an integrated care board.
- (4) The 2012 Act is to be read as if—
 - (a) section 116(13) were omitted;
 - (b) in section 117(4) and (5), the references to the commissioner of a health care service do not include a reference to NHS England;
 - (c) section 118(7) to (12) were omitted;
 - (d) in section 119—
 - (i) in subsection (1), the words “the National Health Service Commissioning Board and” were omitted;
 - (ii) subsections (2) to (4) were omitted;
 - (e) section 121(9)(b) were omitted;
 - (f) in section 122(2), “and the National Health Service Commissioning Board” were omitted;
 - (g) in section 123(7), “and the National Health Service Commissioning Board” were omitted;
 - (h) in section 124—
 - (i) for subsection (3) there were substituted—
 - “(3) An agreement under this section by an integrated care board has effect only if it is approved by NHS England.”;
 - (ii) in subsection (5), for “Monitor may approve an agreement under this section” there were substituted “NHS England may approve an agreement under this section by an integrated care board”;
 - (i) in section 125(1), for “commissioner” there were substituted “integrated care board”;
 - (j) in section 126—
 - (i) in subsection (3), “the National Health Service Commissioning Board and” were omitted;
 - (ii) in subsection (5), the words “The Board and” were omitted;
 - (k) in section 127(1)—
 - (i) in paragraph (a)—
 - (aa) paragraph (3)(a) of this regulation does not apply to the reference to Monitor (and, accordingly, that reference continues to be read as a reference to Monitor);
 - (bb) after “concerned” there were inserted “before 1st July 2022”;
 - (ii) in paragraph (b), after “arbitration” there were inserted “before 1st July 2022”;
 - (l) in Schedule 12—
 - (i) paragraph 1(2)(a) (and the “and” after it) were omitted;
 - (ii) paragraph 4(3)(b) (but not the “and” after it) were omitted.

PART 9

Transitional provision in relation to procurement, patient choice and competition

Transitional provision in relation to the provision of regulatory information or assistance to the CMA

20. During the period beginning with 1st July 2022 and ending when section 78 of the 2022 Act (regulations as to patient choice) comes into force, section 13SC of the 2006 Act^(a) (provision of regulatory information or assistance to the CMA) is to be read as if, in subsection (2), in the definition of “regulatory information”, in paragraph (b), for sub-paragraph (i) there were substituted—

“(i) sections 76 and 77 of, and Schedule 9 to, the Health and Social Care Act 2012 (regulations etc relating to procurement, patient choice and competition), and measures made under those provisions in the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013^(b)”

Transitional provision: procurement, patient choice and competition

21.—(1) The following modifications apply during the period beginning with 1st July 2022 and ending when section 80(2) to (4) of the 2022 Act comes into force.

(2) Except in the provisions inserted by paragraph (4), in sections 75 to 78 of, and Schedule 9 to, the 2012 Act and in the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013—

- (a) any reference to Monitor is to be read as a reference to NHS England;
- (b) any reference to a clinical commissioning group is to be read as a reference to an integrated care board.

(3) The 2012 Act is to be read as if—

- (a) in section 76(1)—
 - (i) in paragraph (c), the words “the Board or” were omitted;
 - (ii) in paragraph (d), the words “the Board or” were omitted;
- (b) in section 76(6), the words “the National Health Service Commissioning Board or” were omitted;
- (c) in section 77(1), the words “the National Health Service Commissioning Board or” were omitted;
- (d) in section 77(3), the words “the Board, or (as the case may be)” were omitted;
- (e) in section 77(4), the words “the Board, or (as the case may be)” were omitted;
- (f) in section 78(2), for “Monitor must consult” to the end, there were substituted “NHS England must consult such persons as it considers appropriate.”.

(4) The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 apply as if—

- (a) in regulation 1, in paragraph (2), at the appropriate place in the alphabetical order, there were inserted—

““integrated care board” means an integrated care board established under Chapter A3 of Part 2 of the National Health Service Act 2006;”;
- (b) in regulation 3, in paragraph (5)(b), for “14Q, 14R and 14Z1”, there were substituted “14Z33, 14Z34 and 14Z42”;

(a) Section 13SC is inserted by section 82(1) of the 2022 Act.

(b) S.I. 2013/500, amended by S.I. 2015/102, 1862, 1879 and 2016/275.

- (c) in regulation 13—
 - (i) in paragraph (4), for “A relevant body”, there were substituted “An integrated care board”;
 - (ii) in paragraph (5), in paragraph (a), for “relevant body”, there were substituted “integrated care board”;
 - (iii) after paragraph (5), there were inserted—
 - “(6) Where an investigation under paragraph (1) or (2) relates to NHS England, NHS England must make arrangements—
 - (a) for any such investigation to be conducted by an employee of NHS England (“the investigating officer”) who has had no prior involvement with the conduct or alleged failure which is the subject of the investigation;
 - (b) for the investigating officer to be supplied with—
 - (i) such information as the investigating officer may specify for the purposes of an investigation carried out by virtue of paragraph (1) or (2), and
 - (ii) where necessary—
 - (aa) an explanation of such information as is provided by virtue of sub-paragraph (b)(i);
 - (bb) in relation to information kept by means of a computer, for that information to be provided in legible form.
 - (7) NHS England must make arrangements to—
 - (a) minimise the risk of conflicts between its investigatory functions under these Regulations and its other functions, and
 - (b) manage any conflicts that arise.
 - (8) Paragraph (9) applies where, before 1st July 2022—
 - (a) a complaint has been received by Monitor for the purposes mentioned in paragraph (1) but has not been determined by that date, or
 - (b) Monitor on its own initiative has commenced an investigation for the purpose mentioned in paragraph (2) but that investigation has not been concluded by that date.
 - (9) A complaint which has not been determined or investigation which has not been concluded—
 - (a) is to be continued by NHS England, and
 - (b) if it is a complaint or investigation into a clinical commissioning group, is to be treated as though it were a complaint or investigation relating to the integrated care board which has taken on the responsibility for exercising in relation to a person the functions of the clinical commissioning group to which the complaint or investigation relates.
 - (10) Paragraph (11) applies where, on or after 1st July 2022—
 - (a) a complaint is received by NHS England for the purposes mentioned in paragraph (1) in relation to conduct before that date, or
 - (b) NHS England on its own initiative proposes to commence an investigation for the purpose mentioned in paragraph (2) in relation to conduct before that date.
 - (11) On or after 1st July 2022—
 - (a) the conduct of a clinical commissioning group before that date it is to be treated as the conduct of the integrated care board which has taken on the responsibility for exercising in relation to a person the functions of the clinical commissioning group to which the complaint or investigation relates, and
 - (b) the complaint or investigation is to be pursued against the integrated care board concerned.”;

- (d) in regulation 15—
 - (i) in paragraph (1), for “a relevant body”, there were substituted “an integrated care board”;
 - (ii) in paragraph (2), for “a relevant body”, there were substituted “an integrated care board”;
- (e) after regulation 15, there were inserted—

“Compliance by NHS England

15A.—(1) Where, following an investigation, NHS England finds it has failed to comply with a requirement imposed by regulations 2 to 12, or by regulations 39, 42 or 43 of the 2012 Regulations, it must take such of the following steps as it deems appropriate in the circumstances—

- (a) put in place measures for the purpose of preventing failures by it to comply with a requirement imposed by regulations 2 to 12, or by regulations 39, 42 or 43 of the 2012 Regulations;
 - (b) put in place measures for the purpose of mitigating the effect of such failures;
 - (c) vary or withdraw an invitation to tender for the provision of health care services for the purposes of the NHS to prevent or remedy a failure by it to comply with a requirement imposed by regulations 2 to 8 and 10;
 - (d) vary an arrangement for the provision of health care services for the purposes of the NHS made in consequence of putting the provision of services out to tender to remedy a failure by it to comply with a requirement imposed by regulations 2 to 8;
 - (e) vary an arrangement for the provision of health care services for the purposes of the NHS to remedy a failure by it to comply with regulation 10;
 - (f) otherwise remedy a failure by it to comply with a requirement referred to in subparagraph (a).
- (2) Nothing in paragraph (1) requires NHS England to hold a competitive tender for a contract for the provision of health care services for the purposes of the NHS.”;
- (f) in regulation 16, for “a relevant body”, there were substituted “an integrated care board”.

PART 10

Transitional provision in relation to primary care services

Transitional provision in relation to primary care services

22.—(1) During the period beginning with 1st July 2022 and ending when section 13 (exercise of functions relating to provision of services) of, and paragraph 14 of Schedule 3 (substitution of section 98A of the 2006 Act) to, the 2022 Act come into force, section 98A of the 2006 Act(a) (medical services - exercise of functions) is to be read as if—

- (a) in subsection (4), for the words “a clinical commissioning group”, there were substituted “an integrated care board”;
- (b) in subsection (5)—
 - (i) for the words “a clinical commissioning group”, there were substituted “an integrated care board”; and
 - (ii) for the words “the group”, there were substituted “the integrated care board”;
- (c) in subsection (7)—

(a) Section 98A was inserted by section 49(1) of the 2012 Act.

- (i) for the words “clinical commissioning group”, there were substituted “integrated care board”; and
- (ii) for the words “the group”, there were substituted “the integrated care board”;
- (d) in subsection (8)—
 - (i) for the words “A clinical commissioning group”, there were substituted “An integrated care board”; and
 - (ii) for the word “group’s”, there were substituted “integrated care board’s”.

(2) During the period beginning with 1st July 2022 and ending when section 13 of, and paragraph 39 of Schedule 3 (substitution of section 125A of the 2006 Act) to, the 2022 Act come into force, section 125A of the 2006 Act(a) (ophthalmic services – exercise of functions) is to be read as if in subsections (4) and (5), for the words “a clinical commissioning group”, there were substituted “an integrated care board”.

(3) Any direction given to a clinical commissioning group under section 98A(4) or (5) of the 2006 Act prior to 1st July 2022, which is still in force immediately prior to 1st July 2022, is to continue to apply to a successor integrated care board as if the direction had been given to that successor integrated care board.

(4) Any direction given to a clinical commissioning group under section 125A(4) or (5) of the 2006 Act prior to 1st July 2022, which is still in force immediately prior to 1st July 2022, is to continue to apply to a successor integrated care board as if the direction had been given to that successor integrated care board.

PART 11

Transitional provision in relation to the abolition of clinical commissioning groups and the creation of integrated care boards

Transitional and saving provision: annual reports of clinical commissioning groups

23.—(1) This regulation applies where, prior to its abolition, a clinical commissioning group has not fully discharged its obligations under section 14Z15(b) of the 2006 Act in relation to—

- (a) the financial year ending with 31st March 2022, or
- (b) the financial year beginning with 1st April 2022.

(2) Section 14Z15 of the 2006 Act is saved in relation to the relevant period and is to be read as if—

- (a) in subsection (1), the obligation imposed on the clinical commissioning group to prepare a report were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (b) in subsection (3), the obligation imposed on the clinical commissioning group to consult each relevant Health and Wellbeing Board were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (c) in subsection (4)—
 - (i) directions applicable to the clinical commissioning group were applicable to the successor integrated care board in relation to that clinical commissioning group, and
 - (ii) NHS England may give directions to an integrated care board as to the form and content of an annual report in relation to a clinical commissioning group’s relevant period;
- (d) in subsection (5)—

(a) Section 125A was inserted by section 49(3) of the 2012 Act.

(b) Section 14Z15 is revoked by paragraph 100 of Schedule 4 to the 2022 Act.

- (i) the obligation imposed on the clinical commissioning group to provide a copy of its annual report before a specified date were imposed on the successor integrated care board in relation to that clinical commissioning group,
 - (ii) that obligation required the report to be provided by the successor integrated care board to NHS England, and
 - (iii) NHS England may give directions to an integrated care board specifying a date before which the annual report must be delivered to it;
- (e) in subsection (6)—
- (i) the obligation imposed on the clinical commissioning group to publish its annual report were imposed on the successor integrated care board in relation to that clinical commissioning group, and
 - (ii) subsection (6)(b) were omitted.
- (3) In paragraph (2), “relevant period” means—
- (a) the financial year ending with 31st March 2022, or
 - (b) the financial year beginning with 1st April 2022 and ending with 30th June 2022.

Transitional and saving provision: performance assessment of clinical commissioning groups

24.—(1) This regulation applies where a performance assessment of a clinical commissioning group required under section 14Z16 of the 2006 Act(a) has not been completed in relation to the financial year ending with 31st March 2022.

(2) Section 14Z16 of the 2006 Act is saved in relation to the financial year ending with 31st March 2022 and is to be read as if references to the Board were references to NHS England.

Transitional provision: means of meeting expenditure of integrated care boards out of public funds

25.—(1) In respect of the first financial year of an integrated care board, section 223G of the 2006 Act is to be read as if subsection (2)(a) were a reference to the expenditure during the relevant period of any predecessor clinical commissioning group of the integrated care board(b).

(2) In paragraph (1), “relevant period” means the financial year ending with 31st March 2022 together with the period beginning with 1st April 2022 and ending with 30th June 2022.

Transitional provision: NHS England consolidated annual accounts

26. Paragraph 16 of Schedule A1 to the 2006 Act is to be read as if—

- (a) in respect of the financial year ending with 31st March 2022, the reference in sub-paragraph (2)(b) to an integrated care board(c) were to a clinical commissioning group, and
- (b) in respect of the financial year beginning with 1st April 2022, the reference in sub-paragraph (2)(b) to an integrated care board were also to include a clinical commissioning group in relation to the period ending with 30th June 2022.

Transitional provision: NHS England consolidated interim accounts

27. Paragraph 17 of Schedule A1 to the 2006 Act is to be read as if, in respect of any period before 1st July 2022, the reference in sub-paragraph (2)(b)—

(a) Section 14Z16 is revoked by paragraph 100 of Schedule 4 to the 2022 Act.
 (b) For the first financial year of an integrated care board, the finance given to a clinical commissioning group in its final year before abolition may be taken into account.
 (c) Reference to an integrated care board was substituted by paragraph 134(2) of Schedule 4 to the 2022 Act.

- (a) to an integrated care board^(a) were to a clinical commissioning group, and
- (b) to paragraph 22(3) of Schedule 1B^(b) were to paragraph 17(3) of Schedule 1A as it applied at the date concerned.

Transitional and saving provision: clinical commissioning group accounts

28.—(1) This regulation applies where, prior to its abolition, a clinical commissioning group has not fully discharged its obligations under paragraph 17 of Schedule 1A to the 2006 Act in relation to—

- (a) the financial year ending with 31st March 2022, or
- (b) the financial year beginning with 1st April 2022.

(2) Paragraph 17 of Schedule 1A to the 2006 Act^(c) is saved in relation to the relevant period and is to be read as if—

- (a) references to the Board were references to NHS England;
- (b) in respect of the financial year beginning with 1st April 2022, that year ended with 30th June 2022;
- (c) the obligation in sub-paragraph (1) imposed on the clinical commissioning group to keep proper accounts and proper records in relation to the accounts were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (d) the obligation in sub-paragraph (2) imposed on the clinical commissioning group to prepare annual accounts in respect of that financial year were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (e) directions given under sub-paragraph (3) to the clinical commissioning group were given to the successor integrated care board in relation to that clinical commissioning group;
- (f) NHS England may give directions under sub-paragraph (4) to an integrated care board as to the methods and principles according to which the annual or other accounts must be prepared, and the form and content of such accounts, in relation to a clinical commissioning group’s financial year;
- (g) the obligation imposed on the clinical commissioning group in sub-paragraphs (7) and (8) to send accounts before a specified date were imposed on the successor integrated care board in relation to that clinical commissioning group.

(3) In paragraph (2), “relevant period” means—

- (a) the financial year ending with 31st March 2022, or
- (b) the financial year beginning with 1st April 2022 and ending with 30th June 2022.

Transitional and saving provision: continuity in relation to the affairs of clinical commissioning groups

29.—(1) Anything done before 1st July 2022 by or in relation to a clinical commissioning group in connection with the exercise of a function which from 1st July 2022 falls to be performed by an integrated care board, is to be treated on and after that date as if done by or in relation to the integrated care board.

(2) Any instrument made by or in relation to a clinical commissioning group which relates to a function which from 1st July 2022 falls to be performed by an integrated care board continues in force in relation to the integrated care board until it is varied or revoked by the integrated care board.

(a) Reference to an integrated care board was substituted by paragraph 134(3)(a) of Schedule 4 to the 2022 Act.
(b) Reference to paragraph 22(3) of Schedule 1B was substituted by paragraph 134(3)(a) of Schedule 4 to the 2022 Act.
(c) Chapter A2 of the 2006 Act, and consequently Schedule 1A introduced by that Chapter, is revoked by paragraph 100 of Schedule 4 to the 2022 Act.

(3) Any form supplied by a clinical commissioning group which relates to a function which from 1st July 2022 falls to be performed by an integrated care board, continues to be a valid form until it is cancelled or varied by the integrated care board, as if any reference in that form to the clinical commissioning group in question were a reference to the integrated care board.

(4) So far as is necessary or appropriate, a reference in an agreement or other instrument to a clinical commissioning group which relates to a function which from 1st July 2022 falls to be performed by an integrated care board, is to be treated on or after that date as a reference to the integrated care board.

(5) In this regulation, a reference to a function of a clinical commissioning group which from 1st July 2022 falls to be performed by an integrated care board includes a reference to the provision of, or the arrangement of the provision of, a service by a clinical commissioning group which from 1st July 2022 is provided, or its provision arranged, by an integrated care board.

(6) Paragraphs (1) to (4) apply subject to any provision for continuity in—

- (a) a transfer scheme under section 14Z28 of the 2006 Act;
- (b) a transfer scheme under section 38 of the 2022 Act;
- (c) regulations made under section 182 of the 2022 Act (power to make consequential provision); or
- (d) any other enactment.

Transitional provision: winding up of the affairs of clinical commissioning groups

30. An integrated care board may do anything which appears necessary or appropriate for the winding up of the affairs of any clinical commissioning group for which it is the successor integrated care board.

Transitional and saving provision: complaints about clinical commissioning groups

31.—(1) A complaint made under the Health Service Commissioners Act 1993^(a) to the Health Service Commissioner for England in relation to a clinical commissioning group, whether made before, on or after 1st July 2022, may be investigated by the Commissioner notwithstanding the abolition of the clinical commissioning group, and the Commissioner must send a copy of the report of the result of the complaint to the successor integrated care board in relation to that clinical commissioning group.

(2) A review or investigation in relation to a clinical commissioning group, whether begun before, on or after 1st July 2022, may be conducted by the Care Quality Commission, notwithstanding the abolition of the clinical commissioning group, and the Commission must send a copy of the report of the result of the investigation to the successor integrated care board in relation to that clinical commissioning group.

(3) A complaint made under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009^(b) in relation to a clinical commissioning group, whether made before, on or after 1st July 2022, is to be dealt with by the successor integrated care board in relation to that clinical commissioning group notwithstanding the abolition of the clinical commissioning group, and treated as if it were a complaint against that successor integrated care board.

Transitional provision: applications to court in respect of children in secure accommodation

32. Where before 1st July 2022 a clinical commissioning group has made arrangements for the provision of accommodation for a child under the 2006 Act, regulation 2 of the Children (Secure

(a) 1993 c. 46.

(b) S.I. 2009/309.

Accommodation) (No. 2) Regulations 1991(a) is to be read as if those arrangements had been made by the successor integrated care board in relation to that clinical commissioning group.

Transitional provision: joint forward plans and joint capital resource use plans

33.—(1) This regulation applies in respect of the financial year ending with 31st March 2023.

(2) Sections 14Z52(1) to (6) and 14Z53 to 14Z55 of the 2006 Act(b) do not apply.

(3) Insofar as it remains relevant, an integrated care board and its partner NHS trusts and NHS foundation trusts must have regard to any existing forward plan of a clinical commissioning group for which that board is the successor integrated care board.

(4) In paragraph (3), “existing forward plan” means a commissioning plan prepared or revised by a clinical commissioning group before 1st July 2022 pursuant to sections 14Z11 and 14Z12 of the 2006 Act in respect of the financial year ending with 31st March 2023.

(5) Section 14Z56(1) of the 2006 Act(c) is to be read as if, for the words “Before the start of each financial year”, there were substituted “As soon as reasonably practicable after the giving of any direction pursuant to subsection (2) relating to any part of the financial year ending with 31st March 2023”.

(6) The following provisions of the 2006 Act is to be read as if the reference to a forward plan published under section 14Z52 were a reference to the existing forward plan of a clinical commissioning group referred to in paragraph (3)—

- (a) section 14Z58(2)(b)(d);
- (b) paragraph 12(1A) of Schedule 4(e);
- (c) paragraph 26(1A) of Schedule 7(f).

Transitional provision: NHS England’s financial responsibilities

34. In respect of the financial year ending with 31st March 2023—

- (a) section 223C of the 2006 Act(g) is to be read as if—
 - (i) the list of bodies in subsection (1) included a reference to clinical commissioning groups in respect of their expenditure incurred and sums received in the period beginning with the 1st April 2022 and ending with the 30th June 2022;
 - (ii) subsection (2)(d) included a reference to sums received but not spent by a predecessor clinical commissioning group in the period beginning with 1st April 2022 and ending with 30th June 2022 to be aggregated with any sums received but not spent by the integrated care board;
- (b) section 223D of the 2006 Act(h) is to be read as if the list of bodies in subsection (3) included a reference to clinical commissioning groups in respect of their use of capital resources or (as the case may be) revenue resources in the period beginning with 1st April 2022 and ending with 30th June 2022;
- (c) section 223E of the 2006 Act(i) is to be read as if—
 - (i) subsection (2) included a reference to clinical commissioning groups in respect of their use of capital resources or (as the case may be) revenue resources in the period beginning with 1st April 2022 and ending with 30th June 2022;

(a) S.I. 1991/2034.

(b) Sections 14Z52 to 14Z55 are inserted by section 25 of the 2022 Act.

(c) Section 14Z56 is inserted by section 25 of the 2022 Act.

(d) Section 14Z58 is inserted by section 25 of the 2022 Act.

(e) Paragraph 12(1A) is inserted by paragraph 136 of Schedule 4 to the 2022 Act.

(f) Paragraph 26(1A) is inserted by paragraph 137 of Schedule 4 to the 2022 Act.

(g) Section 223C is substituted by sections 27 and 28 of the 2022 Act.

(h) Section 223D is substituted by section 27 of the 2022 Act.

(i) Section 223E is substituted by section 27 of the 2022 Act.

- (ii) subsection (3) included a reference to NHS England’s use of revenue resources which is attributable to such matters relating to administration as are specified in the direction in connection with clinical commissioning groups in the period beginning with 1st April 2022 and ending with 30th June 2022.

Transitional provision: appointment of local auditor

35. In respect of the financial year ending with 31st March 2023 and in relation to an integrated care board only, section 7(1) of the Local Audit and Accountability Act 2014(a) is to be read as if, for the words “not later than 31 December in the preceding financial year”, there were substituted “as soon as reasonably practicable after 1st July 2022 and in any event before 1st October 2022”.

Signed by authority of the Secretary of State for Health and Social Care

Edward Argar
Minister of State,
Department of Health and Social Care

30th June 2022

SCHEDULE

Regulation 2(a)

Provisions of the 2022 Act coming into force on 1st July 2022

<i>Provision of the 2022 Act</i>	<i>Subject matter</i>
Section 1, in so far as it is not already in force	NHS Commissioning Board renamed NHS England
Section 2	Power to require commissioning of specialised services
Section 3	Spending on mental health
Section 4	NHS England mandate: general
Section 6	Duties as to reducing inequalities
Section 7	Duties in respect of research: business plan and annual report etc
Section 8	NHS England: wider effect of decisions
Section 9	NHS England: duties in relation to climate change etc
Section 10	Public involvement: carers and representatives
Section 11	Information about inequalities
Section 12	Support and assistance by NHS England
Section 14	Preparation of consolidated accounts for providers
Section 15	Funding for service integration
Section 16	Payments in respect of quality
Section 17	Secondments to NHS England
Section 18	Role of integrated care boards
Section 19, in so far as it is not already in force	Establishment of integrated care boards
Section 20	People for whom integrated care boards have responsibility
Section 21	Commissioning hospital and other health services
Section 22, only in so far as it gives effect to the commencement of paragraphs 7(1) and (2)	Commissioning primary care services etc

(a) 2014 c. 2.

and 11(1) and (4) of Schedule 3	
Section 24	Commissioning arrangements: conferral of discretions
Section 25	General functions
Section 26	Integrated care partnerships and strategies
Section 27	NHS England's financial responsibilities
Section 29	Financial responsibilities of integrated care boards and their partners
Section 32	Integrated care system: further amendments
Section 33	Abolition of Monitor and transfer of functions to NHS England
Section 34	Exercise by NHS England of new regulatory functions
Section 35	Modification of standard licence conditions
Section 36	Abolition of NHS Trust Development Authority
Section 37	Merger of bodies: consequential amendment
Section 38, to the extent, if any, that it is not already in force	Transfer schemes in connection with abolished bodies
Section 39	Transfer schemes under section 38: taxation
Section 40	Duties in respect of research
Section 41	Report on assessing and meeting workforce needs
Section 42	Arrangements for exercise of public health functions
Section 43	Power of direction: public health functions
Section 44	Power of direction: investigation functions
Section 45	General power to direct NHS England
Section 47	Review into NHS supply chains
Section 48	NHS trusts in England
Section 49	Removal of power to appoint trust funds and trustees
Section 50	Sections 48 and 49: consequential amendments
Section 52	NHS trusts: wider effect of decisions
Section 53	NHS trusts: duties in relation to climate change
Section 54	Oversight and support of NHS trusts
Section 55	Directions to NHS trusts
Section 56	Recommendations about restructuring of NHS trusts
Section 57	Intervention in NHS trusts
Section 58	NHS trusts: conversion to NHS foundation trusts and dissolution
Section 59	Appointment of chair of NHS trusts
Section 60	Financial objectives for NHS trusts
Section 61	Licensing of NHS foundation trusts
Section 62	Capital spending limits for NHS foundation trusts
Section 63	Accounts, reports and forward plans
Section 64	NHS foundation trusts: joint exercise of functions
Section 65	NHS foundation trusts: mergers, acquisitions and separations
Section 66	Transfers on dissolution of NHS foundation trusts

Section 67	NHS foundation trusts: wider effect of decisions
Section 68	NHS foundation trusts: duties in relation to climate change
Section 69	Transfer schemes between trusts
Section 70	Trust special administrators
Section 71	Joint working and delegation arrangements
Section 72	References to functions: treatment of delegation arrangements etc
Section 73	Repeal of duties to promote autonomy
Section 74	Guidance about joint appointments
Section 75	Co-operation by NHS bodies etc
Section 76	Wider effect of decisions: licensing of health care providers
Section 81	Eradicating slavery and human trafficking in supply chains
Section 82	Duty to provide assistance to the CMA
Section 83	Mergers of providers: removal of CMA powers
Section 84	Removal of functions relating to competition etc
Section 85	Removal of CMA's involvement in licensing etc
Section 86	Special Health Authorities: removal of 3 year limit
Section 87	Tidying up etc provisions about accounts of certain NHS bodies
Section 88	Meaning of "health" in NHS Act 2006
Section 89	Repeal of spent powers to make transfer schemes etc
Section 90	Abolition of Local Education and Training Boards
Section 91	Hospital patients with care and support needs: repeals etc
Section 92	Information about payments etc to persons in the health care sector
Section 93	Regulations under section 92: enforcement
Section 94	Regulations under section 92: consent
Section 101	Medicine information systems
Section 102	Relevant bodies and Special Health Authorities
Section 103	Power to transfer functions between bodies
Section 104	Power to provide for exercise of functions of Secretary of State
Section 105	Scope of powers
Section 106	Transfer schemes in connection with regulations
Section 107	Transfer schemes: taxation
Section 108	Consent and consultation
Section 136	Offence of virginity testing: England and Wales
Section 137	Offence of offering to carry out virginity testing: England and Wales
Section 138	Offence of aiding or abetting etc a person to carry out virginity testing: England and Wales
Section 139	Virginity testing offences in England and Wales: penalties

Section 140	Offence of virginity testing: Scotland
Section 141	Offence of offering to carry out virginity testing: Scotland
Section 142	Offence of aiding or abetting etc a person to carry out virginity testing: Scotland
Section 143	Virginity testing offences in Scotland: penalties and supplementary
Section 144	Offence of virginity testing: Northern Ireland
Section 145	Offence of offering to carry out virginity testing: Northern Ireland
Section 146	Offence of aiding or abetting etc a person to carry out virginity testing: Northern Ireland
Section 147	Virginity testing offences in Northern Ireland: penalties
Section 148	Offence of carrying out hymenoplasty: England and Wales
Section 149	Offence of offering to carry out hymenoplasty: England and Wales
Section 150	Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales
Section 151	Hymenoplasty offences in England and Wales: penalties
Section 152	Offence of carrying out hymenoplasty: Scotland
Section 153	Offence of offering to carry out hymenoplasty: Scotland
Section 154	Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland
Section 155	Hymenoplasty offences in Scotland: penalties and supplementary
Section 156	Offence of carrying out hymenoplasty: Northern Ireland
Section 157	Offence of offering to carry out hymenoplasty: Northern Ireland
Section 158	Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland
Section 159	Hymenoplasty offences in Northern Ireland: penalties
Section 160	Consequential amendments relating to Part 5
Section 161(1)	Pharmaceutical services: remuneration in respect of vaccines etc
Section 167	Provision of social care services: financial assistance
Section 168	Regulation of health care and associated professions
Section 170	Commercial dealings in organs for transplantation: extra-territorial offences
Section 173	Hospital food standards
Section 174	Food information for consumers: power to amend retained EU law
Section 180	Licensing of cosmetic procedures
Section 181	Mandatory training on learning disability and autism
Schedule 1	Renaming of NHS Commissioning Board
Schedule 2, in so far as it is not already in force	Integrated care boards: constitution etc

Schedule 3, paragraph 7(1), only in so far as it gives effect to the commencement of paragraph 7(2), paragraph 7(2), paragraph 11(1), only in so far as it gives effect to the commencement of paragraph 11(4), and paragraph 11(4)	Conferral of primary care functions on integrated care boards etc – amendments of the 2006 Act
Schedule 4	Integrated care system: minor and consequential amendments
Schedule 5	Abolition of Monitor and transfer of its functions
Schedule 7	NHS Trusts in England and removal of power to appoint trustees: consequential amendments
Schedule 8	Trust special administrators: NHS Trusts and NHS Foundation Trusts
Schedule 9	References to functions: treatment of delegation arrangements etc
Schedule 12	Removal of functions relating to competition etc
Schedule 16	Virginity testing and hymenoplasty: consequential amendments
Schedule 19	Licensing of cosmetic procedures

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force specified provisions of the Health and Care Act 2022 (c. 31) (“the Act”) on 1st July 2022 (regulation 2), on 31st July 2022 (regulation 3) and on 30th August 2022 (regulation 4). They are the second commencement regulations to be made under the Act. These Regulations also make transitional and saving provision in connection with the coming into force of the provisions brought into force by these Regulations.

Regulation 2(a) brings into force on 1st July 2022 provisions of the Act specified in the Schedule to these Regulations. In particular, in the Schedule, there is an entry relating to the commencement of section 38 of the Act (transfer schemes in connection with abolished bodies) to the extent, if any, that it is not already in force. Section 38 was commenced by S.I. 2022/515 (C. 20), however, in that instrument, the enabling power was incorrectly cited. A reference to the commencement of section 38 of the Act is included in the Schedule in order to ensure that that section is commenced, in case there might otherwise be a doubt in that regard.

Regulation 2(b) brings into force on 1st July 2022 section 77 (the NHS payment scheme) of, and Schedule 10 to, the Act for the purpose of the conduct of a consultation in accordance with section 114C(2) of the Health and Social Care Act 2012 (c. 7) and for related matters.

Regulation 3 brings into force on 31st July 2022 section 99 (collection of information about adult social care) of the Act for the purpose of inserting sections 277A(1) to (5) and (7), 277B and 277C into the Health and Social Care Act 2012.

Regulation 4 brings into force on 30th August 2022 section 178 (early medical termination of pregnancy) of the Act.

Regulation 5 makes transitional provision in relation to the Secretary of State’s power to require commissioning of services in accordance with section 3B of the National Health Service Act 2006 (c. 41) in relation to the period before section 13YB of the National Health Service Act 2006 (as inserted by section 13(2) of the Act) comes into force.

Regulation 6 secures that any licensing criteria set by Monitor under section 86(1) of the Health and Social Care Act 2012 are treated as if they were set by NHS England (Monitor is abolished by the Act).

Regulation 7 ensures that an investigation by the Parliamentary Commissioner of Administration into an action taken by or on behalf of Monitor can continue or be commenced after Monitor is abolished, and that reports of investigations that conclude after 1st July 2022 go to NHS England instead of Monitor. Regulation 8 makes equivalent provision about reports of investigations by the Health Service Commissioner for England into an action taken by or on behalf of the NHS Trust Development Authority.

Regulation 9 makes transitional provision in relation to mandatory information requests made by Monitor to the Health and Social Care Information Centre in order to ensure that upon the abolition of Monitor, certain mandatory information requests it has made under section 255 of the Health and Social Care Act 2012 are treated as directions made by NHS England under section 254 of that Act.

Regulations 10 to 12 make provision to secure the ongoing effectiveness of provisions dealing with requirements to produce annual reports, accounts and other documents for Monitor or the NHS Trust Development Authority (the NHS Trust Development Authority is abolished by the Act).

Regulation 13 makes provision to secure continuity between Monitor and the NHS Trust Development Authority and NHS England, which is taking over their functions.

Regulation 14 secures that a financial objective set under paragraph 2(2) of Schedule 5 to the National Health Service Act 2006 survives the substitution of sub-paragraph (2).

Regulations 15 to 18 make provision to secure the ongoing effectiveness of provisions dealing with requirements to produce financial annual reports, accounts and other documents for certain NHS bodies notwithstanding the abolition of Monitor and the NHS Trust Development Authority.

Regulation 19 makes provision arising from the abolition under the Act of Monitor and clinical commissioning groups in relation to the transition from the National Tariff currently provided for in Chapter 4 of the Health and Social Care Act 2012 to the NHS payment scheme which will be provided for in that Chapter upon full commencement of section 77 of the Act.

Regulation 20 makes transitional provision in relation to the provision of regulatory information or assistance to the Competition and Markets Authority until section 78 of the Act (regulations as to patient choice) comes into force.

Regulation 21 makes transitional provision in relation to the handling of complaints and investigations under the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 (S.I. 2013/500) by NHS England following the abolition of Monitor. Where complaints relate to NHS England itself, provision is made for an investigation to be conducted by an employee of NHS England who has had no prior involvement with the conduct or alleged failure which is the subject of the investigation.

Regulation 22 makes transitional provision in respect of primary care services so that certain paragraphs of sections 98A and 125A of the National Health Service Act 2006 are to be read as if references to “clinical commissioning group” were references to “integrated care board”.

Regulation 22(3) and (4) further provides that any existing directions given to clinical commissioning groups under section 98A(4) or (5) or section 125A(4) or (5) of the National Health Service Act 2006 are to continue to apply to integrated care boards.

Regulation 23 saves section 14Z15 of the National Health Service Act 2006 (which relates to the preparation of annual reports by clinical commissioning groups) in respect of annual reports which have not been completed by the point of abolition of the clinical commissioning groups, and provides that these should be completed by the successor integrated care boards.

Regulation 24 saves section 14Z16 of the National Health Service Act 2006 (which relates to the performance assessment of clinical commissioning groups) in respect of performance assessments which have not been completed by the point of abolition of the clinical commissioning groups, and provides that these should be completed by NHS England.

Regulation 25 provides that, in determining the sums to be paid to an integrated care board during its first financial year under section 223G of the National Health Service Act 2006, NHS England should take account of the expenditure of any predecessor clinical commissioning group in the financial year ending with 31st March 2022 and in the period beginning with 1st April 2022 and ending with 30th June 2022.

Regulation 26 makes transitional provision to ensure that NHS England continues to take account of clinical commissioning groups when preparing its consolidated annual accounts for financial years ending 31st March 2022 and 2023. Regulation 27 makes similar provision in relation to consolidated interim accounts.

Regulation 28 makes transitional and saving provision to ensure that obligations under paragraph 17 of Schedule 1A to the National Health Service Act 2006 (which relates to preparation of accounts for clinical commissioning groups) which have not been completed by a clinical commissioning group before its abolition are completed by its successor integrated care board.

Regulation 29 makes transitional provision for continuity of affairs by integrated care boards following the abolition of clinical commissioning groups.

Regulation 30 makes transitional provision to allow integrated care boards to wind up the affairs of clinical commissioning groups.

Regulation 31 makes transitional provision for continuity of complaints processes relating to clinical commissioning groups which are abolished, and for reports to be sent to successor integrated care boards.

Regulation 32 makes transitional provision so that applications to court under the Children (Secure Accommodation) (No. 2) Regulations 1991 (S.I. 1991/2034) may be made by an integrated care board in respect of children in secure accommodation where the child was placed into accommodation by a clinical commissioning group.

Regulation 33 makes transitional provision so that integrated care boards may, to the extent they remain relevant, have regard to joint forward plans and joint capital resource use plans prepared by clinical commissioning groups before their abolition, rather than prepare their own plans.

Regulation 34 makes transitional provision so that sections 223C, 223D and 223E of the National Health Service Act 2006 (which relate to financial duties of NHS England) continue to take account of the expenditure of clinical commissioning groups in the period between 1st April 2022 and 30th June 2022, immediately before their abolition.

Regulation 35 makes transitional provision so that an integrated care board can appoint a local auditor for the purposes of section 7(1) of the Local Audit and Accountability Act 2014 (c.2) as soon as reasonably practicable after its creation and in any event before the 1st October 2022.

A full impact assessment has not been prepared for this instrument as the Regulations themselves have no impact on the private, voluntary or public sector. A full impact assessment has been prepared in relation to the Act, and a copy is available at <https://www.gov.uk/government/publications/health-and-care-bill-combined-impact-assessments>. A hard copy can be obtained by writing to the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Health and Care Act 2022 (c. 31) have been brought into force by commencement regulations made before the date of these Regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1(1)	9th May 2022 (partially)	S.I. 2022/515 (C. 20)
Section 19(1)	9th May 2022	S.I. 2022/515 (C.

Section 19(2)	9th May 2022 (partially)	20) S.I. 2022/515 (C. 20)
Section 19(3)	9th May 2022	S.I. 2022/515 (C. 20)
Section 19(4)	9th May 2022 (partially)	S.I. 2022/515 (C. 20)
Section 38	9th May 2022	S.I. 2022/515 (C. 20)
Schedule 2	9th May 2022 (partially)	S.I. 2022/515 (C. 20)

© Crown copyright 2022

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

<http://www.legislation.gov.uk/id/uksi/2022/734>

ISBN 978-0-34-823701-6



9 780348 237016