

Health and Care Bill

AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

BARONESS THORNTON

Page 1, line 5, at end insert “after an impact assessment under section 153 has been published.”

Clause 3

BARONESS WALMSLEY

Page 2, line 16, at end insert —

“(6C) The Secretary of State may not revise the mandate more than once in a financial year.””

Member’s explanatory statement

This amendment is to ensure that the mandate is not subject to constant revision.

Clause 14

BARONESS WALMSLEY

Page 9, line 10, at end insert “within a period of three months following the publication of the list of initial areas.”

Member’s explanatory statement

This amendment sets a determinate period for the clinical commissioning group or groups to propose the constitution of the first integrated care board.

Page 9, line 27, leave out “a reasonable period” and insert “three months”

Member’s explanatory statement

This amendment allows NHS England to establish the first integrated care board where a clinical commissioning group or groups have failed to propose one within the time limit.

Clause 16

BARONESS WALMSLEY

Page 13, line 43, after “prevention of” insert “physical or mental”

Member’s explanatory statement

This amendment ensures that equal weight is given to physical and mental illness in the provision of services or facilities.

Page 13, line 44, after “from” insert “physical or mental”

Member’s explanatory statement

This amendment ensures that equal weight is given to physical and mental illness in the provision of services or facilities.

Page 14, line 25, leave out “may” and insert “must”

Member’s explanatory statement

This amendment makes the provision of arrangements for securing the improvement of services or facilities by integrated care boards mandatory.

Clause 20

BARONESS WALMSLEY

Page 16, line 33, at beginning insert “assess and”

Member’s explanatory statement

This amendment would ensure action to reduce health inequalities is based on accurate information about inequalities in the local area.

Page 16, line 35, at beginning insert “assess and”

Member’s explanatory statement

This amendment would ensure action to reduce health inequalities is based on accurate information about inequalities in the local area.

LORD YOUNG OF COOKHAM

Page 16, line 36, at end —

“(c) reduce inequalities between patients with respect to modifiable risk factors such as smoking.”

Member’s explanatory statement

This amendment would expand the requirement to reduce inequalities to include modifiable risk factors which are the leading causes of inequalities in health outcomes.

BARONESS WALMSLEY

Page 17, line 9, after “of” insert “physical and mental”

Member's explanatory statement

This amendment is to ensure parity of esteem between physical and mental health.

Page 17, line 25, at end insert “and to ensure the availability of sufficient well-trained staff to provide safe staffing levels.”

Member's explanatory statement

This amendment draws the attention of the integrated care board to the need to ensure sufficient well-trained staff to comply with safe staffing levels.

Page 17, line 35, at end insert —

“(d) improve the ability of NHS and care staff to carry out their duties within safe staffing levels.”

Member's explanatory statement

This amendment is to ensure that each integrated care board in exercising its functions has regard to the need for safe staffing levels.

Page 27, line 17, at end insert —

“14Z60A Appeals

The Secretary of State may by regulations make provision for appeals against the exercise by NHS England of its intervention powers.”

Member's explanatory statement

This amendment makes provision for appeals to the Secretary of State.

Clause 21

BARONESS WALMSLEY

Page 29, line 20, at end insert “which must include one member with local responsibility for public health and at least one member who can demonstrate that they are able to represent local voluntary sector organisations.”

Member's explanatory statement

This amendment would ensure that appropriate expertise in public health and voluntary organisations is represented on the integrated partnership committee.

After Clause 80

LORD HUNT OF KINGS HEATH

Insert the following new Clause —

“Equitable distribution of GPs

- (1) There is to be established the General Medical Practitioners Equitable Distribution Board.
- (2) The Board has the function of ensuring the equitable distribution of GPs throughout England and that all areas have an adequate number.
- (3) An order establishing the Board must provide for the constitution, remit and funding of the board.

After Clause 80 - continued

- (4) The Board must make an annual report to Parliament on its performance.”

Member’s explanatory statement

The aim of the amendment is to establish a Board to effect the equitable distribution of general medical practitioners in England, and to ensure that all areas have an adequate number of GPs.

BARONESS BRINTON

Insert the following new Clause—

“NHS duty to carers

NHS bodies must identify unpaid carers who come into contact with NHS services and ensure that their health and wellbeing is taken into account when decisions are made concerning the health and care of the person or people for whom they care.”

Member’s explanatory statement

This amendment would place a duty on NHS bodies to identify unpaid carers and ensure their health and wellbeing is taken into account.

After Clause 148

LORD HUNT OF KINGS HEATH

Insert the following new Clause—

“Vaccine damage payments

Within 6 months of the passing of this Act, the Secretary of State must establish an independent judge led review into the operation of the Vaccine Damage Payments Act 1979 and the adequacy of payments offered to persons seriously injured, or bereaved, consequent upon vaccination against any of the specified diseases to which the Act applies.”

Member’s explanatory statement

The Vaccine Damage Payment Act is now more than 40 years old and the aim of the amendment is to ensure that a judge led review takes place into the operation of the Act.

Insert the following new Clause—

“Clinical negligence

Within 6 months of the passing of this Act, the Secretary of State must establish an independent review into the process for handling clinical negligence in the NHS, which must amongst other matters consider—

- (a) the potential of repealing section 2(4) of the Law Reform (Personal Injuries) Act 1948;
- (b) the performance of NHS Resolution.”

Member’s explanatory statement

The aim of the amendment is to establish a review of clinical negligence in the NHS.

LORD YOUNG OF COOKHAM

Insert the following new Clause –

“Young carers’ needs assessment: discharge from hospitals

(1) In the Children Act 1989, after section 17ZA insert –

“17ZAA Young carers’ needs assessment: discharge from hospitals

- (1) An NHS body must ascertain during hospitalisation whether a patient when discharged will be cared for primarily by a young carer.
- (2) An NHS body must give the Local Authority where the patient lives notice that a young carer will require a needs assessment.
- (3) The local authority when carrying out young carers’ needs assessment must cover –
 - (a) whether it is appropriate for the young carer to provide care; and
 - (b) what support or services need to be in place for safe discharge.””

Member’s explanatory statement

This amendment aims to ensure that before a patient is discharged from hospital into the care of a young person, the relevant local authority ensures that this is appropriate.

LORD FAULKNER OF WORCESTER
LORD YOUNG OF COOKHAM

Insert the following new Clause –

“Age of sale for tobacco

- (1) The Secretary of State must, no later than six months after this Act is passed, consult on raising the age of sale for tobacco from 18 to 21, and publish a report on the consultation.
- (2) The Secretary of State must lay the report must before Parliament, and a Minister of the Crown must arrange to make a statement to each House of Parliament setting out in detail any steps which will be taken to implement the findings of the report.”

Member’s explanatory statement

This new Clause would require the Secretary of State to consult on raising the age of sale for tobacco products to 21 and report to Parliament.

Insert the following new Clause –

“Sale and distribution of nicotine products to children under the age of 18 years

- (1) The Secretary of State must, no later than six months after this Act is passed, make regulations to prohibit the free distribution of nicotine products to those aged under 18 years, and prohibit the sale of all nicotine products to those under 18.
- (2) Regulations under subsection (1) must include an exception for medicines or medical devices indicated for the treatment of persons aged under 18.”

Member’s explanatory statement

This new Clause would require the Secretary of State to prohibit the free distribution or sale of any consumer nicotine product to anyone under 18, while allowing the sale or distribution of nicotine replacement therapy licensed for use by under-18s.

LORD YOUNG OF COOKHAM

Insert the following new Clause –

“Consultation on statutory scheme

- (1) The Secretary of State must, no later than six months after this Act is passed, consult and report on the desirability of making a scheme (referred to in this section and section (*Statutory scheme: supplementary*) as a statutory scheme) for one or more of the following purposes –
 - (a) regulating, for the purposes of improving public health, the prices which may be charged by any manufacturer or importer of tobacco products for the supply of any tobacco products;
 - (b) limiting the profits which may accrue to any manufacturer or importer in connection with the manufacture or supply of tobacco products;
 - (c) providing for any manufacturer or importer of tobacco products to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those products (whether on the basis of net prices, average selling prices or otherwise) to be used for the purposes of reducing smoking prevalence and improving public health.
- (2) The consultation must ask for views on a draft statutory scheme (or alternative draft schemes), which may, in particular, make any provision mentioned in subsections (3) to (6).
- (3) The draft scheme or schemes may provide for any amount representing sums charged by any manufacturer or importer to whom the scheme applies, in excess of the limits determined under the scheme, for tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (4) The draft scheme or schemes may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or importer to whom the scheme applies in connection with the manufacture or importation of tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (5) The draft scheme or schemes may provide for any amount payable in accordance with the scheme by any manufacturer or importer to whom the scheme applies to be paid to the Secretary of State within a specified period.
- (6) The draft scheme or schemes may –
 - (a) prohibit any manufacturer or importer to whom the scheme applies from varying, without the approval of the Secretary of State, any price charged by him for the supply of any tobacco product covered by the scheme, and
 - (b) provide for any amount representing any variation in contravention of that prohibition in the sums charged by that person for that product to be paid to the Secretary of State within a specified period.
- (7) The Secretary of State must lay the report before Parliament and a Minister of the Crown must arrange to make a statement to each House of Parliament setting out in detail any steps which will be taken to implement the findings of the report.”

Member's explanatory statement

This new Clause, along with others, would require the Secretary of State for Health and Social Care to carry out a consultation about a statutory scheme for the regulation of prices and profits of tobacco manufacturers and importers. Funds raised by the scheme would be used to pay for the cost of tobacco control measures to deliver the Government's ultimatum for industry to make smoked tobacco obsolete by 2030 and for England to be smoke-free with smoking rates 5% or below.

Insert the following new Clause—

“Statutory scheme: supplementary

- (1) The Secretary of State may make any provision he or she considers necessary or expedient for the purpose of enabling or facilitating—
 - (a) the introduction of a statutory scheme of the type mentioned in section *(Consultation on statutory scheme)*, or
 - (b) the determination of the provision to be made in a proposed statutory scheme.
- (2) The provision may, in particular, require any person to whom such a scheme may apply to—
 - (a) record and keep information;
 - (b) provide information to the Secretary of State in electronic form.
- (3) The Secretary of State must—
 - (a) store electronically the information which is submitted in accordance with this provision;
 - (b) ensure that information submitted in accordance with this provision is made publicly available on a website, taking the need to protect trade secrets duly into account.
- (4) Where the Secretary of State is preparing to make or vary a statutory scheme, he or she may make any provision he considers necessary or expedient for transitional or transitory purposes which could be made by such a scheme.”

Insert the following new Clause—

“Statutory scheme: enforcement

- (1) The provisions of this section apply if, following consultation under section *(Consultation on statutory scheme)*, legislation is enacted which enables the making of a statutory scheme.
- (2) Regulations may provide for a person who contravenes any provision of the scheme, including any regulations or directions made under the scheme to be liable to pay a penalty to the Secretary of State.
- (3) The penalty may be—
 - (a) a single penalty not exceeding £5 million;
 - (b) a daily penalty not exceeding £500,000 for every day on which the contravention occurs or continues.
- (4) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of any provision in the scheme reflecting section *(Consultation on statutory scheme)*(4) or (6)(b) to be increased by an amount not exceeding 50 per cent.

After Clause 148 - continued

- (5) Regulations may provide for any amount payable to the Secretary of State by virtue of any provision in the scheme reflecting section (*Consultation on statutory scheme*)(3), (4), (5) or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.
- (6) Provision may be made by regulations for conferring on manufacturers and importers a right of appeal against enforcement decisions taken in respect of them in pursuance of the scheme, section (*Consultation on statutory scheme*), (*Statutory scheme: supplementary*) and this section.
- (7) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994, reading –
 - (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision, and
 - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (8) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to –
 - (a) require a specific manufacturer or importer to provide information to him or her,
 - (b) limit, in respect of any specific manufacturer or importer, any price or profit,
 - (c) refuse to give his or her approval to a price increase made by a specific manufacturer or importer, or
 - (d) require a specific manufacturer or importer to pay any amount (including an amount by way of penalty) to him or her,
 and in this subsection “specific” means specified in the decision.
- (9) A requirement or prohibition, or a limit, under section (*Consultation on statutory scheme*), may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (10) Subsection (9) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State under section (*Consultation on statutory scheme*) or this section.
- (11) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (3).”

Insert the following new Clause –

“Statutory scheme: controls: supplementary

- (1) The provisions of this section apply if, following consultation under section (*Consultation on statutory scheme*), legislation is enacted which enables the making of a statutory scheme.

After Clause 148 - continued

- (2) Any power conferred on the Secretary of State by legislation enacted which enables the making of a statutory scheme, and by section (*Statutory scheme: supplementary*) may be exercised by –
 - (a) making regulations, or
 - (b) giving directions to a specific manufacturer or importer.
- (3) Regulations under subsection (2)(a) may confer power for the Secretary of State to give directions to a specific manufacturer or importer; and in this subsection “specific” means specified in the direction concerned.
- (4) In this section and section (*Consultation on statutory scheme*), (*Statutory scheme: supplementary*) and (*Statutory scheme: enforcement*) –
 - “tobacco product” means a product that can be consumed and consists, even partly, of tobacco;
 - “manufacturer” means any person who manufactures tobacco products;
 - “importer” means any person who imports tobacco products into the UK with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, and contravention of a provision includes a failure to comply with it.”

LORD RENNARD

Insert the following new Clause –

“Health warnings on cigarettes and cigarette papers

The Secretary of State must, no later than six months after this Act is passed, make regulations requiring health warnings to be printed on individual cigarettes and cigarette rolling papers.”

Member’s explanatory statement

This new Clause would require the Secretary of State to make regulations requiring health warnings to be printed on all individual cigarettes and rolling papers.

Insert the following new Clause –

“Cigarette pack inserts

The Secretary of State must, no later than six months after this Act is passed, make regulations requiring all cigarette packs to have a leaflet inserted displaying a health information message.”

Member’s explanatory statement

This new Clause would require the Secretary of State to make regulations requiring leaflets containing health information and information about smoking cessation services to be inserted inside cigarette packaging.

Insert the following new Clause—

“Flavoured tobacco products

- (1) The Secretary of State must, no later than six months after this Act is passed, by regulations extend the prohibition of characterising flavours in cigarettes or handrolling tobacco to all flavouring, and extend the flavour prohibition to all smoking tobacco and smoking tobacco accessories including filter papers, filters and other products designed to flavour tobacco products.
- (2) In this section “characterising flavour” means a clearly noticeable smell or taste other than one of tobacco, resulting from an additive or a combination of additives, including, but not limited to, fruit, spice, herbs, alcohol, candy, menthol or vanilla, which is noticeable before or during the consumption of the tobacco product.”

Member’s explanatory statement

This new Clause would require the Secretary of State to prohibit any flavouring in all smoking tobacco and smoking tobacco accessories.

Clause 153

BARONESS THORNTON

Page 129, line 6, at end insert—

- “(1A) Part 1 comes into force on such a day as the Secretary of State may by regulations appoint, subject to the provisions in subsections (1B) and (1C).
- (1B) Regulations under subsection (1A) may only be laid after the Secretary of State has published an impact assessment on the risks, costs and benefits to patients of commencing the provisions under Part 1 with reference to—
- (a) specific requirements on the NHS in dealing with the COVID-19 pandemic and any related restrictions in place in England;
 - (b) the NHS Long Term Plan;
 - (c) the NHS plan for recovery.
- (1C) Regulations under subsection (1A) may only appoint a day that is six months or later than the day the regulations are laid before Parliament to be made by statutory instrument.”

Member’s explanatory statement

This amendment provides that regulations to commence Part 1 of the Bill can only be laid by the Secretary of State after an impact assessment has been completed.

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10 December 2021
