

Health and Care Bill

FIFTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The previous Instruction for the marshalling of amendments was revoked on 18th January 2022. The amendments have been marshalled in accordance with the new Instruction of 18th January 2022, as follows. The amendments have not been renumbered.

Clause 1	Clause 69
Schedule 1	Schedule 11
Clauses 2 and 3	Clauses 70 to 74
Clauses 5 to 14	Schedule 12
Schedule 2	Clauses 75 to 80
Clauses 15 to 17	Clause 4
Schedule 3	Clauses 135 to 144
Clauses 18 to 27	Schedule 17
Schedule 4	Clauses 145 to 148
Clause 28	Clause 95
Schedule 5	Schedule 13
Clauses 29 to 40	Clauses 96 to 109
Schedule 6	Schedule 14
Clauses 41 to 43	Clauses 110 to 120
Schedule 7	Schedule 15
Clauses 44 to 61	Clause 121
Schedule 8	Clauses 81 to 94
Clauses 62 and 63	Clauses 122 to 134
Schedule 9	Schedule 16
Clauses 64 to 68	Clauses 149 to 154
Schedule 10	Title.

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 20

LORD WARNER

- 72 Page 17, line 4, at end insert –
- “(2) Where patients are unable to secure treatment in an NHS facility after waiting 3 months, they may choose to seek treatment, including diagnostic treatment, from a registered private service provider at NHS prices.
- (3) Providers of services under subsection (2) must provide NHS England with the information NHS England considers necessary to enable it to conduct and publish a national annual survey on the extent to which patients have been offered a choice of provider.”

LORD CLEMENT-JONES
BARONESS BARKER
BARONESS CUMBERLEGE

- 73 Page 17, line 4, at end insert –
- “(2) This includes the provision of information about the deployment of new treatments and technologies.”

Member’s explanatory statement

This amendment would require ICBs to provide patients with information about new treatments and technologies to inform patient choice.

BARONESS MCINTOSH OF PICKERING
LORD PATEL
LORD HUNT OF KINGS HEATH
LORD WARNER

- 74 Page 17, line 4, at end insert –
- “14Z37A Duty to ensure appropriate uptake of all NICE approved products according to population need**
- (1) Each integrated care board must publish and promote uptake of all NICE-approved medicines and medical devices in accordance with the need of the population it serves.
- (2) This list must be publicly available in an accessible format and kept up to date.
- (3) An integrated care board must, in each financial year, prepare a report on the uptake of all NICE approved medicines and medical devices, including the number of patients that have accessed each product.”

Member’s explanatory statement

This amendment would require ICBs to ensure that all NICE approvals are available and promoted to their population via a publicly accessible format (online), and report on this uptake annually.

LORD HOWARTH OF NEWPORT

- 75 Page 17, line 8, after “expertise” insert “, including from the voluntary, community and social enterprise sector and other bodies offering non-clinical services,”

Clause 20 - continued

BARONESS WALMSLEY
 BARONESS TYLER OF ENFIELD
 LORD PATEL

76 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.

LORD HOWARTH OF NEWPORT

77 Page 17, line 13, after “innovation” insert “, including evidence-based good practice in social prescribing,”

BARONESS MCINTOSH OF PICKERING
 LORD HUNT OF KINGS HEATH
 LORD PATEL
 LORD KAKKAR

78 Page 17, line 14, at end insert –

“14Z39A Duty to review latest innovations with a view to local commissioning

- (1) Integrated care boards must review all new –
 - (a) medicines,
 - (b) medical devices, and
 - (c) other health care solutions that may benefit the local population.
- (2) Integrated care boards must –
 - (a) appoint a dedicated innovation officer to their board, and
 - (b) develop and maintain a system to keep up to date with medicines and devices innovation and review suitability for patient usage, including engagement with the relevant –
 - (i) academic health science network, and
 - (ii) local pharmaceutical committee.”

Member’s explanatory statement

This amendment would mandate ICBs to monitor and assess innovation for the benefit of the local population.

LORD SHARKEY
 LORD KAKKAR
 LORD PATEL
 BARONESS BLACKWOOD OF NORTH OXFORD

79 Page 17, leave out lines 16 to 19 and insert –

“Each integrated care board must –

- (a) ensure that those eligible organisations for which the integrated care board is responsible conduct research on matters relevant to improving patient outcomes and health care delivery and promote the use in health and care of evidence obtained from research,

Clause 20 - continued

- (b) co-produce with place-based partnerships research aims to meet the needs of their local communities and ensure diversity of participation, and
- (c) transparently publish via their annual reports and joint forward plans the steps they have taken or plan to take to deliver clinical research.”

LORD HOWARTH OF NEWPORT

- 80 Page 17, line 19, at end insert “, including evidence obtained from engagement of its population with creativity and culture, the natural environment and non-clinical activities designed to promote health and wellbeing.”

BARONESS MCINTOSH OF PICKERING

- 81 Page 17, line 19, at end insert –
- “(2) Each integrated care board must each year prepare, consult on and adopt a research strategy for patient benefit which –
 - (a) meets local need;
 - (b) meets national research undertakings.
 - (3) In developing a strategy under subsection (2), an integrated care board must engage with –
 - (a) the National Institute for Health Research, and
 - (c) all relevant regional and national health and care research organisations.”

Member’s explanatory statement

This amendment would require ICBs to establish a research strategy across health and care and other connected measures.

LORD HOWARTH OF NEWPORT

- 82 Page 17, line 22, after “training” insert “, including non-clinical education and training designed to support the improvement of health and wellbeing,”

BARONESS WALMSLEY

- 83 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.

LORD HUNT OF KINGS HEATH

LORD CLEMENT-JONES

BARONESS CUMBERLEGE

- 84 Page 17, line 25, at end insert –

“14Z41A Duty to promote digital transformation

- (1) Each integrated care board must, in the exercise of its functions, promote digital transformation in the provision of health services (including in the arrangements made for their provision).

Clause 20 - continued

- (2) Each integrated care board must within 12 months of the passing of the Health and Care Act 2022 publish a 5 year plan for digital transformation which shall be updated at least once every five years.”

Member’s explanatory statement

This amendment would prioritise the promotion of digital transformation accompanied by the publication of a 5 year plan for digital transformation with an update at least once every 5 years.

BARONESS HOLLINS

- 85 Page 17, line 28, after “services” insert “and social care services”

Member’s explanatory statement

This amendment will ensure that the provision of social care services are also considered by Integrated Care Boards.

BARONESS WALMSLEY

- 86 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.

BARONESS FINLAY OF LLANDAFF
 BARONESS BENNETT OF MANOR CASTLE

- 87 Page 17, line 35, at end insert –
 “(d) drive improvements in child health and wellbeing outcomes within the population of its area, including through appointment of a strategic clinical children and young people’s health lead.”

Member’s explanatory statement

This amendment would require integrated care boards to ensure the provision of health services is integrated with health-related services or social care services to drive improvements in child health outcomes in their local area. This should include appointment of a strategic clinical children and young people’s health lead to the integrated care board.

BARONESS HOLLINS

- 88 Page 17, leave out lines 36 to 42 and insert –
 “(2) Each integrated care board must exercise its functions with a view to securing that the provision of health services and social care services is fully integrated where it considers that this would –
 (a) improve the quality of physical and mental health services (including the outcomes that are achieved from the provision of those services),
 (aa) improve the quality of social care services (including the outcomes that are achieved from the provision of those services),”

Member's explanatory statement

This amendment would place greater emphasis on the provision and quality of social care services and the integration of health and social care services.

89 Page 18, line 2, at end insert—

- “(2A) Each integrated care board must publish, at least once every two years, a shared health and social care outcomes framework to secure that the provision of health services is integrated with the provision of health-related services and social care services as set out in subsections (1) and (2).
- (2B) In developing the shared health and social care outcomes framework, the integrated care board must consult any relevant bodies.
- (2C) In this section “relevant bodies” means—
- (a) NHS England,
 - (b) an integrated care partnership,
 - (c) a local authority (within the meaning of section 2B),
 - (d) a combined authority,
 - (e) social care providers or representatives, and
 - (f) other bodies deemed relevant by the integrated care board.”

Member's explanatory statement

This amendment would require integrated care boards to develop and publish a health and social care outcomes framework, at least every two years, in order to ensure health and social care services are properly integrated. This should be developed with a wide range of expertise across the health and social care sectors.

LORD HOWARTH OF NEWPORT
BARONESS JONES OF MOULSECOOMB

90 Page 18, line 12, leave out “housing accommodation” and insert “well-designed housing and urban and green environment”

BARONESS HOLLINS
BARONESS TYLER OF ENFIELD
LORD PATEL

91 Page 18, line 18, after first “the” insert “physical and mental”

Member's explanatory statement

This amendment will require Integrated Care Boards to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness replicating the parity of esteem duty as introduced in the Health and Social Care Act 2012.

92 Page 18, line 23, after first “of” insert “physical and mental”

Member's explanatory statement

This amendment will require Integrated Care Boards to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness replicating the parity of esteem duty as introduced in the Health and Social Care Act 2012

LORD HUNT OF KINGS HEATH
BARONESS WALMSLEY
BARONESS THORNTON

- 93 Page 18, line 26, at end insert –
“(d) the impact on the diversity of provision of health and care services, including social enterprises, independent providers and charities in that area.”

Member’s explanatory statement

The amendment would place a duty on NHS England and Integrated Care Boards to ensure that there is a diversity of provision within local areas including social enterprises so that there is a range of choice and expertise available to local communities.

LORD PATEL
BARONESS TYLER OF ENFIELD
LORD KAKKAR

- 94 Page 18, line 26, at end insert –
“(d) health inequalities.”

Member’s explanatory statement

This amendment would modify the triple aim to explicitly require Integrated Care Boards to take account of health inequalities when making decisions.

THE LORD BISHOP OF ST ALBANS

- 95 Page 18, line 26, at end insert –
“(d) the duty to co-operate with other integrated care boards under section 14Z35(d) for the purposes of achieving equality of access for patients living in all parts of the board’s wider area.”

Member’s explanatory statement

This amendment places a duty on Integrated Care Boards to actively co-operate with each other over the provision of services for the purposes of achieving equality of access for patients living in all parts of the board’s wider area.

BARONESS MCINTOSH OF PICKERING
LORD PATEL
LORD KAKKAR

- 96 Page 18, line 38, at end insert –
“14Z43A Duty on integrated care boards to consider requests to engage in clinical trials, and patient participation
(1) Each integrated care board must consider any request from the organiser of an authorised clinical trial for the integrated care board to engage in that trial.
(2) If such a request is accepted, the integrated care board must offer the ability to participate in the trial to any patient within their area who is eligible to take part.”

Member’s explanatory statement

This amendment would require integrated care boards to consider any requests to engage in clinical trials and offer patients the opportunity to participate.

BARONESS MCINTOSH OF PICKERING
LORD PATEL
LORD HUNT OF KINGS HEATH

97 Page 18, line 38, at end insert –

“14Z43A Duty to update formularies to include all NICE-approved products

- (1) Within 28 days of any medicine or device receiving market authorisation from NICE, an integrated care board must update its formulary to include that medicine or device.
- (2) On receipt of notice of the market authorisation by NICE of any medicine or device, an integrated care board must immediately instruct providers of health and care services commissioned by the board to update their formularies in such a way that all NICE-approved medicines and devices are available to patients on the recommendation of a healthcare practitioner within 28 days of market authorisation.
- (3) An integrated care board must report annually in a publicly accessible format all medicines and devices that have been added and removed from their formulary over the previous year and maintain an active list of all medicines and devices available on their formulary.”

Member’s explanatory statement

This amendment would mandate integrated care boards and healthcare providers (e.g. hospital trusts) to update their formularies to include all NICE-approved medicines or devices within 28 days of market authorisation to ensure they are available for healthcare practitioners (e.g. physician or prescribing pharmacist) to make available for suitable patients.

BARONESS TYLER OF ENFIELD
BARONESS MASHAM OF ILTON

98 Page 18, line 38, at end insert –

“14Z43A Discharge of duty as a safeguarding partner

- (1) The Secretary of State must make regulations specifying how integrated care boards must discharge their duty as a statutory safeguarding partner under section 16E of the Children Act 2004.
- (2) Regulations under subsection (1) are subject to affirmative procedure.
- (3) In discharging its duty under subsection (1), an integrated care board must have regard to statutory guidance on inter-agency working to safeguard and promote the welfare of children, including requirements to –
 - (a) assign a lead representative for the safeguarding partnership, equivalent to the accountable officer of a clinical commissioning group, who has the authority to make decisions on behalf of the integrated care board;
 - (b) share data and information for the purposes of safeguarding and promoting the welfare of children in its area;
 - (c) ensure independent scrutiny of the effectiveness of multi-agency arrangements to safeguard and promote the welfare of children in its area.”

Member's explanatory statement

This amendment would require the Secretary of State to lay regulations before Parliament which provide formal guidance on how the Integrated Care Board must perform its existing duty as a statutory safeguarding partner, building on statutory guidance in Working together to safeguard children (2018).

BARONESS HOLLINS

99 Page 18, line 38, at end insert –

“14Z43A Duty of parity of esteem between physical and mental health

Each integrated care board must exercise its functions with a view to securing parity of esteem of physical and mental health services to –

- (a) improve the quality of the physical and mental health services (including the outcomes that are achieved from their provision),
- (b) reduce inequalities between persons with respect to their ability to access those services, or
- (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.”

Member's explanatory statement

This amendment will require integrated care boards to work towards a parity of esteem between physical and mental health services replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

BARONESS FINLAY OF LLANDAFF

100 Page 18, line 38, at end insert –

“14Z43A Duty to promote rehabilitation

Each integrated care board must produce an annual community rehabilitation plan covering the provision of physical and psychological rehabilitation services.”

Member's explanatory statement

Rehabilitation falls across multiple health sectors and between health and social care. This amendment would ensure integration of social support with services from health care professionals at practice level.

BARONESS HAYMAN
BARONESS YOUNG OF OLD SCONE
LORD STEVENS OF BIRMINGHAM
LORD PRIOR OF BRAMPTON

101 Page 18, line 38, at end insert –

“14Z43A Duty to contribute to climate change and environmental targets

Each integrated care board must, in the exercise of its functions, contribute to –

- (a) compliance with the duty imposed by section 1 of the Climate Change Act 2008 (UK net zero emissions target),
- (b) adaptation to climate change, and
- (c) meeting other environmental goals (such as restoration or enhancement of the natural environment).”

Member's explanatory statement

The purpose of this amendment is to include a new duty for ICBs to contribute to the achievement of the UK's climate change, adaptation and environmental goals.

101A [Withdrawn]

LORD LAYARD
LORD ALDERDICE
BARONESS WATKINS OF TAVISTOCK

101B Page 18, line 38, at end insert –

“14Z43A Duties of NHS England to improve mental health services

- (1) The percentage of NHS England expenditure devoted to mental health must rise progressively until there is parity between mental and physical healthcare, meaning that people coming forward with mental health problems are as likely to be offered treatment as people with physical health problems within a condition-appropriate time.
- (2) Using the increased expenditure in subsection (1), NHS England must implement routine outcome measurement and reporting throughout all NHS mental health services.
- (3) The Secretary of State must issue guidance to integrated care boards on the requirements in subsections (1) and (2).”

LORD HOWARTH OF NEWPORT

102 Page 19, line 1, after “any)” insert “, including persons in the voluntary, community and social enterprise sector and other bodies offering non-clinical interventions designed to improve health and wellbeing”

LORD HUNT OF KINGS HEATH
LORD PATEL
BARONESS THORNTON

103 Page 19, line 15, at end insert –

- “(2A) In performing its duty under subsection (2) the Integrated Care Board must make adequate arrangements (including where necessary by commissioning) for the receipt and consideration of any reports or other information provided by any relevant Healthwatch (any local Healthwatch whose boundaries coincide with, or in the whole or any part of, the Integrated Care System).”

Member's explanatory statement

The amendment ensures reports of Healthwatch are fully considered by the integrated care board.

BARONESS BENNETT OF MANOR CASTLE

103A Page 19, line 15, at end insert –

- “(2A) The integrated care board must consult on youth health prevention and treatment provision through an advisory board consisting of people aged 25 and under.”

Clause 20 - continued

LORD HOWARTH OF NEWPORT

104 Page 20, line 5, leave out “voluntary” and insert “non-clinical voluntary, community, social enterprise or creative or cultural”

105 Page 20, line 8, at end insert –

“(1A) In making such grants or loans an integrated care board must have regard to the need for financial equity between clinical and non-clinical providers.”

LORD SHARKEY
BARONESS WALMSLEY
BARONESS THORNTON

106 Page 20, leave out lines 20 to 43

LORD HOWARTH OF NEWPORT

107 Page 20, line 26, at end insert –

“(aa) circumstances in which an integrated care board may make payments to an organisation or individual in the voluntary, community or social enterprise sector or a creative or cultural body providing or arranging a health-related service, and”

108 Page 21, line 3, at end insert “, including in relation to provision of services supporting health and social care by the voluntary, community and social enterprise sector and creative and cultural bodies.”

LORD RENNARD
LORD HUNT OF KINGS HEATH

109 Page 21, line 3, at end insert –

“(1A) The guidance relevant for the purposes of subsection (1) include, in particular, key performance metrics on the uptake of innovative technologies among diabetes patients.”

Member’s explanatory statement

This amendment would require NHS England’s System Oversight Framework for integrated care systems to include a metric on the percentage of diabetes patients in their area accessing diabetes technology.

BARONESS MCINTOSH OF PICKERING
BARONESS BENNETT OF MANOR CASTLE

110 Page 21, line 5, at end insert –

“Strategy to support victims of domestic abuse using services

14Z49A Duty to prepare a strategy to support victims of domestic abuse using services

(1) Each integrated care board in England must –

(a) assess, or make arrangements for the assessment of, the need for support for victims of domestic abuse using their services;

Clause 20 - continued

- (b) prepare and publish a strategy for the provision of such support in its area;
 - (c) monitor and evaluate the effectiveness of the strategy;
 - (d) designate a domestic abuse and sexual violence lead; and
 - (e) publish an annual report on how it has discharged its duties relating to the provision of services to victims of domestic violence under the Care Act 2014.
- (2) An integrated care board that publishes a strategy under this section must, in carrying out its functions, give effect to the strategy.
- (3) Before publishing a strategy under this section, an integrated care board must consult –
- (a) any local authority for an area within the integrated care board’s area,
 - (b) the domestic abuse local partnership board appointed by the local authority for an area within the integrated care board’s area under section 58 of the Domestic Abuse Act 2021, and
 - (c) such other persons as the integrated care board considers appropriate.
- (4) For the purposes of subsection (3), “local authority” means –
- (a) a county council or district council in England, or
 - (b) a London borough council.
- (5) An integrated care board that publishes a strategy under this section –
- (a) must keep the strategy under review,
 - (b) may alter or replace the strategy, and
 - (c) must publish any altered or replacement strategy.
- (6) The Secretary of State may by regulations make provision about the preparation and publication of strategies under this section.
- (7) The power to make regulations under subsection (6) may, in particular, be exercised to make provision about –
- (a) the procedure to be followed by an integrated care board in preparing a strategy;
 - (b) matters to which an integrated care board must have regard in preparing a strategy;
 - (c) how an integrated care board must publish a strategy;
 - (d) the date by which an integrated care board must first publish a strategy;
 - (e) the frequency with which an integrated care board must review its strategy or any effect of the strategy on the provision of other provision in its area.
- (8) Before making regulations under this section, the Secretary of State must consult –
- (a) all integrated care boards;
 - (b) such other persons as the Secretary of State considers appropriate.”

Member’s explanatory statement

This new clause would require Integrated Care Boards to publish a strategy for the provision of support for victims of domestic abuse using their services and designate a domestic abuse and sexual violence lead.

LORD HOWARTH OF NEWPORT

- 111 Page 21, line 14, after “duties” insert “, including in relation to the voluntary, community and social enterprise sector and creative and cultural bodies, and”

LORD CRISP

LORD HUNT OF KINGS HEATH

LORD SCRIVEN

BARONESS BENNETT OF MANOR CASTLE

- 112 Page 22, line 8, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

LORD CRISP

LORD HUNT OF KINGS HEATH

LORD SCRIVEN

- 113 Page 22, line 10, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 114 Page 22, line 14, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 115 Page 22, line 23, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 116 Page 22, line 27, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

LORD HUNT OF KINGS HEATH
BARONESS THORNTON
LORD SCRIVEN

- 117 Page 22, line 30, at end insert –
“(aa) the relevant local medical, dental, pharmaceutical and optical committees, and”

Member’s explanatory statement

This amendment would ensure that in preparing their annual strategic forward plan, the Integrated Care Board and its partner NHS trusts and NHS foundation trusts would need to consult the relevant primary care Local Representative Committees and publish an explanation of how they took account of those views when publishing their plan.

LORD HUNT OF KINGS HEATH
BARONESS MASHAM OF ILTON
LORD PATEL
BARONESS THORNTON

- 118 Page 22, line 31, at beginning insert “including through any relevant Healthwatch,”

Member’s explanatory statement

This is to ensure that in any consultation on the forward plan, Healthwatch should have a pivotal role in relation to consulting local people.

LORD HOWARTH OF NEWPORT

- 119 Page 22, line 31, at end insert “, including the voluntary, community and social enterprise sector and creative and cultural bodies.”

LORD CRISP
LORD HUNT OF KINGS HEATH
LORD SCRIVEN

- 120 Page 22, line 32, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 121 Page 22, line 35, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 122 Page 23, line 3, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 123 Page 23, line 5, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 124 Page 23, line 10, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 125 Page 23, line 37, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 126 Page 23, line 42, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 127 Page 23, line 44, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 128 Page 24, line 6, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 129 Page 24, line 8, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 130 Page 24, line 19, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 131 Page 24, line 21, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

- 132 Page 24, line 25, leave out “and NHS foundation trusts” and insert “, NHS foundation trusts and primary care services”

Member’s explanatory statement

This amendment would require Integrated Care Boards to work with the four primary care services listed in schedule 3 (Primary Medical Services, Primary Dental Services, Primary Ophthalmic Services and Pharmaceutical Services) when preparing and revising their five year plans, in the same way they are required to work with NHS trusts and NHS foundation trusts.

BARONESS GREENGROSS
BARONESS FINLAY OF LLANDAFF

- 133 Page 24, line 35, at end insert “for all commissioned services, including NHS continuing healthcare”

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES
BARONESS CUMBERLEGE

- 134 Page 24, line 40, at end insert –
“section 14Z41A (duty to promote digital transformation),”

Member’s explanatory statement

The amendment would ensure that in the annual report of the integrated care board, there would be a duty to explain how the ICB has discharged its responsibility to promote digital transformation.

BARONESS MCINTOSH OF PICKERING

- 135 Page 25, line 6, at end insert –
“(d) explain what research activity the integrated care board undertook during the year, including –
(i) research to meet local health issues,
(ii) research to support national research projects, and
(iii) the progress of applications considered by the relevant Research Ethics Committee.
(2A) The annual report prepared by the Secretary of State under section 247D must include a section which reproduces, and comments on, the sections of the annual reports of each integrated care board prepared under subsection (2)(d).”

Member's explanatory statement

This amendment would require integrated care boards to publish an account of their research activity and require the report the Secretary of State must prepare and lay before Parliament under section 247D of the National Health Service Act 2006 to include a section which reproduces, and comments on, the research activity of all ICBs.

LORD STEVENS OF BIRMINGHAM
BARONESS HOLLINS
BARONESS MERRON
BARONESS TYLER OF ENFIELD

136 Page 25, line 6, at end insert –

“(d) state whether, and to what extent, in that year the integrated care board’s revenue expenditure on mental health services increased as a proportion of its total revenue expenditure.”

Member's explanatory statement

This amendment would require each integrated care board to disclose in its annual report whether during the previous financial year its funding for mental health services grew as a share of its overall revenue expenditure.

LORD HOWARTH OF NEWPORT

137 Page 25, line 8, at end insert “and the voluntary, community and social enterprise sector and creative and cultural bodies.”

BARONESS MCINTOSH OF PICKERING
BARONESS TYLER OF ENFIELD
BARONESS WATKINS OF TAVISTOCK
BARONESS BENNETT OF MANOR CASTLE

138 Page 25, line 14, at end insert –

“14Z56A Report on assessing and meeting parity of physical and mental health outcomes

- (1) Each integrated care board must annually set out in a report the steps it has taken to fulfil its obligations to deliver parity of esteem between physical and mental health to its local population.
- (2) The report must set out –
 - (a) the number of patients presenting with mental health conditions,
 - (b) the number of patients presenting with physical health conditions,
 - (c) the number of mental health patients waiting for initial assessment,
 - (d) the number of physical health patients waiting for initial assessment,
 - (e) the number of mental health patients waiting for treatment,
 - (f) the number of physical health patients waiting for treatment,
 - (g) the number of mental health patients receiving treatment,
 - (h) the number of physical health patients receiving treatment,
 - (i) the number of patients readmitted to mental healthcare settings, and
 - (j) the number of patients readmitted to physical health care settings.

Clause 20 - continued

- (3) The report must set out performance against nationally set standards in both physical and mental health.
- (4) Each year the Secretary of State must lay before Parliament a consolidated report of all the reports made by integrated care boards under this section, and make a statement to each House of Parliament on the report.”

Member’s explanatory statement

This amendment would require an ICB to report on assessing and meeting parity of physical and mental health outcomes.

BARONESS GREENGROSS
BARONESS FINLAY OF LLANDAFF

- 139 Page 25, line 18, at end insert “for all commissioned services, including NHS continuing healthcare”

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES
BARONESS CUMBERLEGE

- 140 Page 25, line 25, at end insert –
“(ca) section 14Z41A (duty to promote digital transformation),”

Member’s explanatory statement

The amendment would ensure that the integrated care board’s performance assessment by NHS England would include an assessment of how well the ICB has promoted digital transformation.

BARONESS TYLER OF ENFIELD
BARONESS FINLAY OF LLANDAFF
THE LORD BISHOP OF LONDON
LORD SHINKWIN

- 141 Page 25, line 31, at end insert –
“(3A) In conducting a performance assessment, NHS England must assess how well the integrated care board has identified and met the needs of children and young people aged 0-25.
(3B) For the purposes of carrying out the assessment in subsection (3A), NHS England must publish a national accountability framework for children and young people.”

Member’s explanatory statement

This amendment would require NHS England to assess how well an integrated care board has met children and young people’s needs in relation to a national accountability framework they have responsibility for publishing.

BARONESS WALMSLEY

- 142 Page 25, line 44, at end insert –
“14Z57A **Report on child impact assessment**

Clause 20 - continued

- (1) Each integrated care board must review and prepare an annual report on the impact of the changes for children and young people resulting from the Health and Care Act 2022 within two years of the passing of that Act.
- (2) The Secretary of State must prepare and publish an annual report that compares all integrated care boards' assessments of the impact on children and young people and lay the report before Parliament.
- (3) A Minister of the Crown must, not later than two months after the report has been laid before Parliament, make arrangements for—
 - (a) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the report mentioned in subsection (2), to be moved in that House by a Minister of the Crown, and
 - (b) a motion for the House of Lords to take note of the report to be moved in that House by a Minister of the Crown.”

Member’s explanatory statement

This amendment would require Integrated Care Boards to prepare an annual report on the impact of the changes for children and young people introduced by this Act, and for the Government to organise a debate on the impact on children and young people in Parliament.

BARONESS FINLAY OF LLANDAFF
BARONESS GREENGROSS

143 Page 26, line 33, at end insert—

“(c) intervene by directing an integrated care board as to how it discharges its functions.”

Member’s explanatory statement

This amendment, along with another amendment to Clause 20 in the name of Baroness Finlay of Llandaff, would strengthen the power that NHS England has to give directions to ICBs.

144 Page 27, line 2, at end insert—

“(c) intervene by directing an integrated care board as to how it discharges its functions.”

Member’s explanatory statement

This amendment, along with another amendment to Clause 20 in the name of Baroness Finlay of Llandaff, would strengthen the power that NHS England has to give directions to ICBs.

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES
BARONESS CUMBERLEGE

145 Page 27, line 43, at end insert—

“(3) Subsections (1) and (2) do not have effect if the information involves the personal data of patients.”

Member's explanatory statement

The amendment is aimed at ensuring that the power to disclose information should exclude personal data on patients and is a probing amendment to see what purpose the Government thinks the power in the clause may be used for.

After Clause 20

BARONESS MERRON
LORD WARNER
LORD PATEL

146 Insert the following new Clause—

“Integrated care boards: workforce reporting

- (1) Each integrated care board must publish a report on workforce levels and requirements at least once every two years.
- (2) A report under subsection (1) must include—
 - (a) an analysis of the current workforce,
 - (b) the workforce requirements to enable the Board to fulfil its duties over the following 2, 5 and 10 years, and
 - (c) any plans the Board has to close any gaps identified in workforce provision.
- (3) In drawing up the report the Board must consult—
 - (a) the Trusts and Foundation Trusts that provide services in its area,
 - (b) providers of primary care in its area, and
 - (c) the recognised trade unions.”

Member's explanatory statement

This amendment requires ICBs to report on workforce requirements.

Clause 21

LORD HUNT OF KINGS HEATH
LORD CRISP
LORD SCRIVEN

147 Page 29, line 19, at end insert—

“(ba) members appointed by each of the local medical, dental, pharmaceutical and optical Committees, and”

Member's explanatory statement

This amendment would ensure that primary care professions would have mandated roles within Integrated Care Partnerships with a member appointed by each of the practitioner committees.

BARONESS WALMSLEY

148 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.

LORD HUNT OF KINGS HEATH
BARONESS TYLER OF ENFIELD
LORD PATEL

149 Page 29, line 20, at end insert –

“(2A) An integrated care partnership shall include a representative of Healthwatch, jointly nominated from the local Healthwatch whose areas coincide with, or include the whole or any part of, the integrated care system, and approved by Healthwatch England.”

Member's explanatory statement

The amendment ensures that ICPs have a Healthwatch nominee in membership.

LORD DAVIES OF BRIXTON

150 Page 29, line 22, at end insert –

“(4) A member of the integrated care partnership may not work for, be the representative of, or hold financial interest in, any private company delivering or seeking to deliver health and care services or services supporting the health and care sector or producing, or seeking to produce, health and care products, with the exception of a company of general practitioners.”

Member's explanatory statement

This amendment seeks to ensure that Integrated Care Partnerships are made up wholly of representatives from public sector organisations, with the exception of GPs, and that private companies are not represented on them.

BARONESS TYLER OF ENFIELD
BARONESS FINLAY OF LLANDAFF
LORD FARMER
LORD SHINKWIN

151 Page 29, line 30, at end insert –

“(1A) In preparing a strategy under this section, an integrated care partnership must include specific consideration of how it will meet the needs of children and young people aged 0-25.”

Member's explanatory statement

This amendment would require an integrated care partnership to specifically consider the needs of babies, children and young people when developing its strategy.

LORD YOUNG OF COOKHAM
LORD SHIPLEY
BARONESS ARMSTRONG OF HILL TOP
BARONESS NEUBERGER

152 Page 29, line 40, at end insert –

“(c) the need to improve health outcomes for Inclusion Health populations”

Member's explanatory statement

This amendment requires an Integrated Care Partnership, when preparing an Integrated Care Strategy, to have due regard to the need to improve health outcomes for Inclusion Health populations as well as the current proposed requirements to have due regard to the NHS Mandate and DHSC Guidance.

BARONESS HAYMAN
BARONESS YOUNG OF OLD SCONE
LORD STEVENS OF BIRMINGHAM
LORD PRIOR OF BRAMPTON

153 Page 29, line 40, at end insert –

“(c) compliance with the duty imposed by section 1 of the Climate Change Act 2008 (UK net zero emissions target), adaptation to climate change, and meeting other environmental goals (such as restoration or enhancement of the natural environment).”

Member's explanatory statement

The purpose of this amendment is to include climate and environment in those matters which an ICP must have regard to.

LORD FARMER

154 Page 30, line 1, leave out “may” and insert “must”

Member's explanatory statement

This amendment and others to Clause 21 and Schedule 4 in the name of Lord Farmer would specify that integrated care partnerships consider how to integrate family help services into the provision of health and social care services, as relationships are recognised by research as a 'health asset'. 'Family help' is defined in accordance with the Independent Care Review's starting definition. 'Family hubs' are named as key potential sites for delivering integrated paediatric health and family help.

155 Page 30, line 3, after “area” insert “, and specifically family help services including through family hubs,”

Member's explanatory statement

This amendment and others to Clause 21 and Schedule 4 in the name of Lord Farmer would specify that integrated care partnerships consider how to integrate family help services into the provision of health and social care services, as relationships are recognised by research as a 'health asset'. 'Family help' is defined in accordance with the Independent Care Review's starting definition. 'Family hubs' are named as key potential sites for delivering integrated paediatric health and family help.

LORD YOUNG OF COOKHAM
LORD SHIPLEY
BARONESS WATKINS OF TAVISTOCK
BARONESS NEUBERGER

156 Page 30, line 4, after “services” insert “, housing”

Member's explanatory statement

This amendment enables an Integrated Care Partnership to include in its Integrated Care Strategy integration arrangements with housing as well as health and social care services.

LORD YOUNG OF COOKHAM
LORD SHIPLEY
BARONESS NEUBERGER

- 157 Page 30, line 28, at end insert –
“(d) “Inclusion Health populations” are identifiable groups who experience social exclusion and elevated levels of morbidity and mortality when compared to otherwise equivalent groups.”

Member’s explanatory statement

This amendment defines Inclusion Health populations for the purpose of the amendment to Clause 21(4) at page 29, line 40.

LORD FARMER

- 158 Page 30, line 28, at end insert –
“(d) “family help” means services which improve children’s lives through supporting the family unit and strengthening family relationships to enable children to thrive and keep families together;
(e) “family hubs” has the same meaning as in paragraph 9 of Schedule 2 to the Children Act 1989, as amended by this Act.”

Member’s explanatory statement

This amendment and others to Clause 21 and Schedule 4 in the name of Lord Farmer would specify that integrated care partnerships consider how to integrate family help services into the provision of health and social care services, as relationships are recognised by research as a ‘health asset’. ‘Family help’ is defined in accordance with the Independent Care Review’s starting definition. ‘Family hubs’ are named as key potential sites for delivering integrated paediatric health and family help.

BARONESS WHEELER

- 159 Page 31, line 43, at end insert –
“(3) The Secretary of State must by regulations make provision for a procedure to be followed should an integrated care partnership believe that an integrated care board has failed in its duty under this section.””

Member’s explanatory statement

This amendment would require the Secretary of State to establish a procedure for the resolution of any dispute between an integrated care partnership and an integrated care board, concerning the implementation of a strategy produced by the integrated care partnership.

Clause 22

LORD MAWSON
BARONESS CUMBERLEGE
LORD CLEMENT-JONES
BARONESS ANDREWS

- 159A Page 32, line 29, at end insert –
“223CZA Financial duties of NHS England: the principle of subsidiarity

Clause 22 - continued

- (1) NHS England must exercise its functions in accordance with the principle of subsidiarity, and must promote the principle throughout the integrated care system in particular by ensuring that integrated care boards observe the principle.
- (2) The principle of subsidiarity is that responsibility for deciding how and where to use resources is as far as possible to be delegated to local areas in order to meet local needs and to promote local groups working collaboratively.
- (3) In doing so, the process and timing of procurement should take account of the benefits of long-term relationships and stable partnerships in delivering sustainable integrated solutions to local health issues.”

After Clause 22

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES
BARONESS CUMBERLEGE

160 Insert the following new Clause –

“Capital spend on digital transformation

The Secretary of State must by order specify that a minimum proportion of 5% of total spend per organisation is to be allocated for funding of digital transformation by NHS England, each Integrated Care Board, NHS Trust and NHS Foundation Trust.”

Member’s explanatory statement

The amendment is designed to ensure that capital spending on digital transformation is ringfenced to ensure no diversion from other activities.

Clause 26

BARONESS GREENGROSS
BARONESS FINLAY OF LLANDAFF

161 Page 37, line 12, after “care” insert “including NHS continuing healthcare”

BARONESS TYLER OF ENFIELD
BARONESS FINLAY OF LLANDAFF

162 Page 37, line 22, at end insert –

- “(1A) The Commission must also conduct reviews of the provision of relevant health care, and children’s social care, within the area of each integrated care board.
- (1B) In conducting reviews under subsection (1A) the Commission must plan reviews jointly with Ofsted.”

Member’s explanatory statement

This amendment would require the Care Quality Commission to work jointly with Ofsted to plan and conduct reviews into the provision of health and children’s social care in integrated care board areas.

LORD LANSLEY

162A Page 37, leave out lines 23 to 30

Member's explanatory statement

This amendment, along with another to this Clause, would remove the power of the Secretary of State to set, and from time to time revise, objectives and priorities for the CQC, but would require the CQC to consult the Secretary of State when it revises indicators of quality for the purposes of assessments under subsection (4).

BARONESS FINLAY OF LLANDAFF
BARONESS FRASER OF CRAIGMADDIE
LORD PATEL

163 Page 37, line 30, at end insert “, including compliance with NICE guidelines to be stipulated in the NHS mandate.”

Member's explanatory statement

This amendment would require NICE to include in inspections a review of compliance with key NICE guidelines as specified in the NHS Mandate, to ensure equitable access to technologies and treatment pathways.

BARONESS WHEELER
LORD SHARKEY

164 Page 37, line 35, at end insert –

“(4A) The indicators of quality set by the Commission under subsection (4) must include –

- (a) whether national standards in the care of people with rare and less common conditions are being met;
- (b) whether the views of patients with rare and less common conditions are being represented;
- (c) whether people with rare and less common conditions have access to a named clinical nurse specialist.”

Member's explanatory statement

This amendment would require integrated care boards to be assessed by the Care Quality Commission on the provision of care for people with rare and less common conditions, in particular.

LORD LANSLEY

164A Page 37, leave out lines 36 and 37 and insert –

“(5) Before doing so, the Commission –

- (a) must consult the Secretary of State and such other persons, or other persons of such a description, as may be prescribed, and
- (b) may also consult such other persons as it considers appropriate.”

Member's explanatory statement

This amendment, along with another to this Clause, would remove the power of the Secretary of State to set, and from time to time revise, objectives and priorities for the CQC, but would require the CQC to consult the Secretary of State when it revises indicators of quality for the purposes of assessments under subsection (4).

After Clause 27

LORD HUNT OF KINGS HEATH
BARONESS TYLER OF ENFIELD
BARONESS THORNTON

165 Insert the following new Clause—

“Place based integrated care and Primary Care Commissioning Boards

- (1) Each place based integrated care board is to be established by regulations made by the Secretary of State for an area within an integrated care board.
- (2) An order establishing a place based integrated care board must provide for the constitution of the board.
- (3) Before making, varying or revoking an order under this section, the Secretary of State must consult—
 - (a) the integrated care board in which the place based integrated care committee is intended to operate;
 - (b) the relevant local authority or local authorities;
 - (c) the integrated care partnership in which the place based integrated care committee is intended to operate;
 - (d) the local healthwatch organisations whose areas coincide with or fall wholly or partly within the proposed area of the place based integrated care board; and
 - (e) members of the public living within the proposed area of the place based integrated care board.
- (4) The place based integrated care board may arrange under a scheme of delegation from the integrated care board for the provision of such services or facilities it considers appropriate for the purposes of the health service that relate to securing the improvement—
 - (a) in the physical and mental health of the people for whom it has responsibility, or
 - (b) in the prevention, diagnosis and treatment in these people.
- (5) In imposing financial requirements on integrated care boards under Section 223GB of the National Health Service Act 2006, NHS England may give additional directions in respect of placed based integrated care committees.
- (6) Integrated care boards may give place based integrated care board directions as to any of the functions to which it has given delegated functions.
- (7) The Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which that Act applies) shall be amended as follows.
- (8) After paragraph 1(k), there shall be added the following sub-paragraph—

“(l) Place Based Integrated Care Boards.””

Member’s explanatory statement

It’s likely that ICBs will set up place based entities which may take many of the key commissioning decisions at the local/Constituency level. This amendment puts place based integrated boards on a statutory basis and subject to Parliamentary oversight and meeting in public.

LORD HUNT OF KINGS HEATH
BARONESS THORNTON
BARONESS WALMSLEY
BARONESS BENNETT OF MANOR CASTLE

166 Insert the following new Clause—

“Provider Network Boards

- (1) A Provider Network Board has the function of arranging for the provision of services delegated to it by integrated care boards.
- (2) Each place based Provider Network Board is to be established by regulations made by the Secretary of State for an area within an integrated care board.
- (3) An order establishing a Provider Network Board must provide for the constitution of the board.
- (4) Before making, varying or revoking an order under this section, the Secretary of State must consult—
 - (a) the integrated care board in which the Provider Network Board is intended to operate;
 - (b) the relevant local authority or local authorities;
 - (c) the integrated care partnership in which the Provider Network Board is intended to operate;
 - (d) the local Healthwatch organisations whose areas coincide with or fall wholly or partly within the proposed area of the place based integrated care board;
 - (e) members of the public living within the proposed area of the place based integrated care board.
- (5) The Provider Network Board may arrange under a scheme of delegation from the integrated care board for the provision of such services or facilities it considers appropriate for the purposes of the health service that relate to securing the improvement—
 - (a) in the physical and mental health of the people for whom it has responsibility, or
 - (b) in the prevention, diagnosis and treatment in these people.
- (6) In imposing financial requirements on integrated care boards under Section 223GB of the National Health Act 2006, NHS England may give additional directions in respect of Provider Network Boards.
- (7) Integrated care boards may give Provider Network Boards such directions as to any of the functions to which it has given delegated functions.
- (8) The Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which that Act applies) shall be amended as follows.
- (9) After paragraph 1(k), there shall be added the following sub-paragraph—

“(l) Provider Network Boards.””

Member’s explanatory statement

Provider networks are likely to exercise considerable influence under the new arrangements being brought in under this Bill. The amendment puts provider Networks on a statutory basis and subject to Parliamentary oversight and a requirement to meet in public.

Schedule 4

LORD FARMER
BARONESS DEECH

167 Page 160, line 34, at end insert –

“37 In Schedule 2, leave out paragraph 9 and insert –

- “9 (1) Every local authority shall provide family hubs with regard to local needs in relation to children and families within their area.
- (2) “Family hub” means an access point at which any of the persons mentioned in sub-paragraph (3) may –
- (a) access advice, guidance, counselling or paediatric health services, and
 - (b) access occupational, social, cultural or recreational activities;
- (3) The persons are –
- (a) a child;
 - (b) a child's parents;
 - (c) any person who is not a parent of a child but who has parental responsibility for a child;
 - (d) any other person who is looking after a child or who is related to a child.””

Member's explanatory statement

This amendment would update the 1989 Children Act's description of a family centre to represent how these have evolved in the last 30 years.

Before Clause 35

BARONESS BENNETT OF MANOR CASTLE

168 Insert the following new Clause –

“Secretary of State's duty to promote health service

- (1) The National Health Service Act 2006 is amended as follows.
- (2) For section 1 (Secretary of State's duty to promote comprehensive health service) substitute the following –

“Secretary of State's duty to promote health service

- (1) The Secretary of State must continue the promotion in England of a comprehensive health service designed to secure improvement –
 - (a) in the physical and mental health of the people of England, and
 - (b) in the prevention, diagnosis and treatment of illness.
- (2) The Secretary of State must for that purpose provide or secure the provision of services in accordance with this Act.
- (3) The services so provided must be free of charge except in so far as the making and recovery of charges is expressly provided for by or under any enactment, whenever passed.””

Member's explanatory statement

This new clause would restore the wording of section 1 of the NHS Act 2006, concerning the duties of the Secretary of State regarding the promotion of the health service, to its original form, before it was amended by section 1 of the Health and Social Care Act 2012.

169 Insert the following new Clause—

“Duties on the Secretary of State to provide services

- (1) The Secretary of State must provide, in England, to such extent as he or she considers necessary to meet all reasonable requirements—
 - (a) hospital accommodation,
 - (b) other accommodation for the purpose of any service provided under this Act,
 - (c) medical, dental, ophthalmic, nursing and ambulance services,
 - (d) such other services or facilities for the care of pregnant women, women who are breastfeeding and young children as he or she considers are appropriate as part of the health service,
 - (e) such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as he or she considers are appropriate as part of the health service,
 - (f) such other services or facilities as are required for the diagnosis and treatment of illness.
- (2) For the purposes of the duty in subsection (1), services provided under—
 - (a) section 82A (primary medical services), section 98C (primary dental services) or section 114C (primary ophthalmic services), of the National Health Service Act 2006, and
 - (b) a general medical services contract, a general dental services contract or a general ophthalmic services contract,
 must be regarded as provided by the Secretary of State.”

Clause 35

BARONESS CUMBERLEGE
 LORD STEVENS OF BIRMINGHAM
 LORD HUNT OF KINGS HEATH
 BARONESS BRINTON

170 Page 42, leave out lines 14 to 19 and insert—

- “(1) The Secretary of State must, at least once every two years, lay a report before Parliament describing the system in place for assessing and meeting the workforce needs of the health, social care and public health services in England.
- (2) This report must include—
 - (a) an independently verified assessment of health, social care and public health workforce numbers, current at the time of publication, and the projected workforce supply for the following five, ten and 20 years; and
 - (b) an independently verified assessment of future health, social care and public health workforce numbers based on the projected health and care needs of the population for the following five, ten and 20 years, taking account of the Office for Budget Responsibility long-term fiscal projections.
- (3) NHS England and Health Education England must assist in the preparation of a report under this section.

Clause 35 - continued

- (4) The organisations listed in subsection (3) must consult health and care employers, providers, trade unions, Royal Colleges, universities and any other persons deemed necessary for the preparation of this report, taking full account of workforce intelligence, evidence and plans provided by local organisations and partners of integrated care boards.””

Member’s explanatory statement

This amendment would require the Government to publish independently verified assessments every two years of current and future workforce numbers required to deliver care to the population in England, taking account of the economic projections made by the Office for Budget Responsibility, projected demographic changes, the prevalence of different health conditions and the likely impact of technology.

BARONESS MERRON
BARONESS WATKINS OF TAVISTOCK
LORD PATEL
BARONESS TYLER OF ENFIELD

171 Page 42, line 19, at end insert –

- “(3) Health Education England must publish a report each year on projected workforce shortages and future staffing requirements for health (including public health) and social care services for the following five, ten and twenty years.
- (4) The report must include projections of both headcount and full-time equivalent for the total health and care workforce in England and for each region, covering all regulated professions and including those working for voluntary and private providers of health and social care as well as the NHS.
- (5) All relevant NHS bodies, arm’s-length bodies, expert bodies, trade unions and the National Partnership Forum must be consulted in the preparation of the report.
- (6) The assumptions underpinning the projections must be published at the same time as the report and must meet the relevant standards set out in the National Statistics Authority’s Code of Practice for Statistics.
- (7) The Secretary of State must update Parliament each year on the Government’s strategy to deliver and fund the long-term workforce projections.””

Member’s explanatory statement

This amendment adds to requirements around workforce planning and the role of Health Education England to report on staffing requirements.

BARONESS FINLAY OF LLANDAFF
LORD BRADLEY

172 Page 42, line 19, at end insert –

- “(3) The report must include an assessment of the total demand and expected supply of non-regulated staff.
- (4) The report must include an assessment of the demand from –

Clause 35 - continued

- (a) the NHS in England and the devolved administrations,
- (b) other employers of health and care staff,
- (c) independent practice,
- (d) social enterprises,
- (e) the voluntary sector, and
- (f) the third sector.”

Member’s explanatory statement

This amendment would mean the duty to report would include the whole health and care workforce, not only those directly employed by the NHS in England.

After Clause 35

BARONESS MERRON
 BARONESS WATKINS OF TAVISTOCK
 LORD KAKKAR
 LORD LEA OF CRONDALL

173

Insert the following new Clause –

“Duty on the Secretary of State to report on workforce planning and safe staffing

- (1) At least every five years the Secretary of State must lay before Parliament a health and care workforce strategy for workforce planning and safe staffing supply.
- (2) This strategy must include –
 - (a) actions to ensure the health and care workforce meets the numbers and skill-mix required to meet workforce requirements,
 - (b) equality impact assessments for planned action for both workforce and population,
 - (c) application of lessons learnt from formal reviews and commissions concerning safety incidents,
 - (d) measures to promote retention, recruitment, remuneration and supply of the workforce, and
 - (e) due regard for and the promotion of workplace health and safety, including provision of safety equipment and clear mechanisms for staff to raise concerns.”

Member’s explanatory statement

This new Clause would require the Secretary of State to lay a strategy for workforce planning and safe staffing supply before Parliament.

BARONESS HOLLINS
 BARONESS FINLAY OF LLANDAFF
 LORD DAVIES OF BRIXTON

174 Insert the following new Clause—

“Report on parity of pay of the workforce

- (1) The Secretary of State must, at least once annually, publish a report describing the system in place, and progress made, to bring about parity in pay between individuals working in health services and individuals working in social care services.
- (2) In determining the extent to which parity of pay has been achieved, the Secretary of State must consider—
 - (a) the basic pay of individuals working in health services and individuals working in social care services;
 - (b) the rates of pay progression available to individuals working in health services and individuals working in social care services;
 - (c) the percentage of individuals working in health services and individuals working in social care services who are on entry level pay.
- (3) The Secretary of State must consult any relevant bodies in the development of this report.
- (4) In this section “relevant bodies” means—
 - (a) NHS England,
 - (b) an integrated care board,
 - (c) a local authority (within the meaning of section 2B of the National Health Service Act 2006),
 - (d) a combined authority,
 - (e) social care providers or representatives, and
 - (f) other bodies deemed relevant by the Secretary of State.”

Member’s explanatory statement

This amendment will require the Secretary of State to publish a report on the work undertaken to bring parity of pay between health and social care services. This report will require the Secretary of State to consult with relevant bodies in the development of these reports.

Clause 39

LORD HUNT OF KINGS HEATH

174A Page 47, line 17, at end insert—

- “(4A) A direction under subsection (1) may be given only in relation to a particular instance, not generally.
- (4B) A direction under subsection (1) must provide for the direction to cease to have effect on a date specified in the direction, which must be no later than one year from the date the direction was given.”

Member’s explanatory statement

This amendment, along with the other amendments to Clause 39 in the name of Lord Hunt of Kings Heath, would reduce the scope of the Secretary of State powers to direct NHS England by adding safeguards and additional exceptions.

174B Page 47, line 19, at end insert –

“(5A) The statement must set out why the Secretary of State believes the direction will be in the best interests of the public; and must include what other options have been considered, including the option of not giving a direction, and provide a justification for the option chosen.”

Member’s explanatory statement

This amendment, along with the other amendments to Clause 39 in the name of Lord Hunt of Kings Heath, would reduce the scope of the Secretary of State powers to direct NHS England by adding safeguards and additional exceptions.

BARONESS THORNTON

175 Page 47, leave out lines 20 and 21 and insert –

“(6) A direction may not be given under this section unless –

- (a) notice of the intention to make a direction has been given to NHS England,
- (b) a formal opportunity has been provided for NHS England to make representations to the Secretary of State regarding the intended direction, and
- (c) notice of an intention to make a direction has been published.”

Member’s explanatory statement

The amendment would provide that where the Secretary of State plans to give a direction under this section, NHS England must be notified and given an opportunity to make representations.

LORD HUNT OF KINGS HEATH

175A Page 47, leave out lines 20 and 21 and insert –

“(6) The Secretary of State must publish any direction under subsection (1) at the time that the direction is issued and lay it before Parliament.

(6A) The Secretary of State must publish an impact assessment on any direction under subsection (1) at the time the direction is issued or within that financial year.

(6B) The Secretary of State must commission and publish an assessment of the impact of the totality of directions given under subsection (1) each calendar year.”

Member’s explanatory statement

This amendment, along with the other amendments to Clause 39 in the name of Lord Hunt of Kings Heath, would reduce the scope of the Secretary of State powers to direct NHS England by adding safeguards and additional exceptions.

LORD HUNT OF KINGS HEATH

BARONESS THORNTON

176 Page 47, line 26, at end insert –

“(9) A direction under subsection (1) must include a direction to ensure that liothyronine (T3) is made available to patients when prescribed by a medical practitioner.”

Member's explanatory statement

The amendment would ensure that in relation to the general power to direct NHS England shall include a direction to ensure that Liothyronine (T3) is made available to patients when prescribed by a medical practitioner. It arises from the difficulties patients are experiencing in getting the NHS to agree to fund the drug.

LORD HUNT OF KINGS HEATH

176A Page 47, line 37, at end insert –

- “(4) A direction under section 13ZC may not be given in relation to the procurement of goods or services.
- (5) A direction under section 13ZC may not be given in relation to the following functions of NHS England –
- (a) the provision of financial assistance under section 13YA (power of NHS England to provide assistance and support), and
 - (b) functions under sections 223G to 223N (finance of integrated care boards).
- (6) A direction under section 13ZC may not be given if the effect of that direction would be to require NHS England to give a direction, or issue advice or guidance, to an integrated care board in respect of a particular decision of that board.”

Member's explanatory statement

This amendment, along with the other amendments to Clause 39 in the name of Lord Hunt of Kings Heath, would reduce the scope of the Secretary of State powers to direct NHS England by adding safeguards and additional exceptions.

LORD LANSLEY
BARONESS WALMSLEY

The above-named Lords give notice of their intention to oppose the Question that Clause 39 stand part of the Bill.

Clause 40

BARONESS THORNTON
LORD LANSLEY
LORD STEVENS OF BIRMINGHAM
BARONESS WALMSLEY

The above-named Lords give notice of their intention to oppose the Question that Clause 40 stand part of the Bill.

Member's explanatory statement

This amendment deletes the provision that increases the scope and scale of the role of the Secretary of State in proposals for service reconfiguration.

After Clause 40

BARONESS MEACHER
 BARONESS TYLER OF ENFIELD
 BARONESS WALMSLEY
 LORD SHINKWIN

177 Insert the following new Clause—

“Regulations and statutory guidance on babies, children and young people

- (1) The Secretary of State must publish regulations on how integrated care systems must meet the needs of babies, children and young people aged 0 to 25.
- (2) The Secretary of State must publish guidance on how integrated care systems should meet their obligations under subsection (1).
- (3) The Secretary of State must lay a copy of the guidance before each House of Parliament.
- (4) Integrated care systems must act in accordance with the guidance in subsection (2).”

Member’s explanatory statement

This Clause would require the Secretary of State to lay regulations and publish guidance on how integrated care systems should meet the needs of babies, children and young people aged 0-25. This would also require integrated care systems to act in accordance with guidance.

LORD SHARKEY
 BARONESS WHEELER

178 Insert the following new Clause—

“Access to innovative medicines and medicinal products review

- (1) The Secretary of State must undertake and publish a review of the use by the NHS of innovative medicines and medicinal products.
- (2) A review must—
 - (a) conclude before 31 December 2022;
 - (b) consider ways to improve the use of innovative medicines and medicinal products within the NHS in England.
- (3) A review must consider—
 - (a) the creation of a specific pathway to assess medicines and medicinal products for rare and less common conditions;
 - (b) improvements to the way in which patient and clinical experience is accommodated when considering the adoption of new medicines and medicinal products.”

Member’s explanatory statement

This new Clause would require the Secretary of State to carry out a review of the assessment and use of innovative medicines and medicinal products, and to consider how to improve access to medicines and medicinal products for people with rare and less common conditions in particular.

Schedule 6

BARONESS CUMBERLEGE
LORD SHIPLEY
LORD HUNT OF KINGS HEATH
LORD PATEL

179 Page 197, leave out lines 11 to 25 and insert –

“1 In this Schedule –

“NHS commissioning body” means NHS England or a clinical commissioning group;

“NHS services” means services provided as part of the health service in England;

“NHS trust” means an NHS trust established under section 25;

“reconfiguration of NHS services” means a substantial and complex change in the arrangements made by an NHS commissioning body for the provision of NHS services where that change has a significant and material impact on –

- (a) the manner in which a service is delivered to individuals (at the point when the service is received by users), or
- (b) the range of health services available to individuals.”

Member’s explanatory statement

This amendment changes the definition of a reconfiguration of NHS services to ensure that it only covers significant changes to NHS services.

BARONESS CUMBERLEGE
LORD SHIPLEY
LORD HUNT OF KINGS HEATH
BARONESS JOLLY

180 Page 198, line 17, at end insert –

“(3A) Before taking a decision under sub-paragraph (2)(a), the Secretary of State must consult and consider advice from –

- (a) all relevant Health Overview and Scrutiny Committees,
- (b) all relevant organisations delivering the NHS services under consideration, and
- (c) the integrated care board, including clinical advice from the integrated care board, and

the Secretary of State must publish submissions from these parties.”

Member’s explanatory statement

This amendment would require the Secretary of State to consult all relevant Health Overview and Scrutiny Committees, those organisations delivering the services under consideration of reconfiguration, and the Integrated Care Board, and to publish those submissions.

BARONESS CUMBERLEGE
LORD SHIPLEY
LORD HUNT OF KINGS HEATH
LORD PATEL

181 Page 198, line 18, at end insert “, within three months”

Member's explanatory statement

This amendment would require the Secretary of State to make a decision within three months.

182 Page 198, line 19, at end insert –

“(aa) publish a statement demonstrating that the decision is in the public interest setting out why the Secretary of State believes the direction will be in the best interests of the public and how it will maintain or improve the safety of persons using those services,”

Member's explanatory statement

This amendment would require the Secretary of State to publish a statement demonstrating that any decision they have made on a reconfiguration proposal is in the public interest and has been taken with consideration of its positive impact on patient safety.

183 Page 198, leave out lines 33 and 34

Member's explanatory statement

This amendment would remove the Secretary of State's power to act as the catalyst for a reconfiguration.

Clause 45

BARONESS HOLLINS
BARONESS TYLER OF ENFIELD
LORD PATEL

184 Page 49, line 34, after first “the” insert “physical and mental”

Member's explanatory statement

This amendment will require NHS Trusts to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness, replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

185 Page 50, line 2, after first “of” insert “physical and mental”

Member's explanatory statement

This amendment will require NHS Trusts to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness, replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

LORD PATEL
BARONESS TYLER OF ENFIELD
LORD KAKKAR

186 Page 50, line 5, at end insert –

“(d) health inequalities.”

Member's explanatory statement

This amendment would modify the triple aim to explicitly require NHS Trusts to take account of health inequalities when making decisions.

Clause 51

LORD HUNT OF KINGS HEATH
BARONESS THORNTON

- 187 Page 52, line 32, leave out “NHS England” and insert “the NHS Appointments Commission”

Member’s explanatory statement

This is consequential on the amendment to Clause 14, page 11, line 20, to create an NHS Appointments Commission.

Clause 54

LORD CRISP
BARONESS WALMSLEY

- 188 Page 53, leave out lines 18 to 20 and insert –
 “(a) an individual trust, and
 (b) the capital expenditure limit.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

- 189 Page 53, line 21, at end insert –
 “(3A) An order may only be made in respect of a trust where NHS England and the trust have considered and reasonably pursued all other steps and mitigations to limit the capital expenditure of the trust to the extent that there is credible evidence that such capital expenditure materially exceeds, or is forecast to materially exceed, the trust’s –
 (a) planned capital resource use under the joint capital resource use plan as prepared under section 14Z54, or
 (b) any revised joint capital resource use plan as prepared under section 14Z55 in that financial year.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

- 190 Page 53, leave out line 22 and insert –
 “(4) The Secretary of State must lay before Parliament a report which includes –
 (a) the reasons for making the order, and
 (b) a summary of any representations made by the trust along with the statutory instrument making the order.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

- 191 Page 53, line 25, at end insert –
 “(5A) A capital expenditure limit imposed by an order made under subsection (1) ceases to have effect at the end of the financial year in which it is made.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

- 192 Page 54, line 1, leave out from “5)” to end of line 3 and insert –
 “(a) in subsection (4), before paragraph (a) insert –
 “(za) section 42B,”;
 (b) in subsection (4A), after “section” insert “42B,”;
 (c) after subsection (4A) insert –
 “(4B) A statutory instrument containing an order under section 42B must be laid before Parliament after it is made.””

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

Clause 59

BARONESS HOLLINS
 BARONESS TYLER OF ENFIELD
 LORD PATEL

- 193 Page 55, line 28, after first “the” insert “physical and mental”

Member’s explanatory statement

This amendment will require NHS foundation trusts to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness, replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

- 194 Page 55, line 33, after first “of” insert “physical and mental”

Member’s explanatory statement

This amendment will require NHS foundation trusts to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness, replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

LORD PATEL
 BARONESS TYLER OF ENFIELD
 LORD KAKKAR

- 195 Page 55, line 36, at end insert –
 “(d) health inequalities.”

Member's explanatory statement

This amendment would modify the triple aim to explicitly require NHS Foundation Trusts to take account of health inequalities when making decisions.

After Clause 61

LORD SHARKEY
BARONESS BLACKWOOD OF NORTH OXFORD
LORD PATEL
LORD KAKKAR

196 Insert the following new Clause—

“NHS Trusts and NHS Foundation Trusts research obligation

In Schedule 4 of the National Health Service Act 2006 (NHS trusts established under section 25), omit paragraph 16 (research) and insert—

“16 NHS Trusts and NHS Foundation Trusts—

- (a) must conduct research on matters relevant to improving patient outcomes and health care delivery and promote the use in health and care of evidence obtained from research,
- (b) must co-produce, with place-based partnerships, research aims that are intended to meet the needs of their local communities and ensure diversity of participation,
- (c) must transparently publish via their annual reports and joint forward plans the steps they have taken or plan to take to deliver clinical research, and
- (d) may make available staff and provide facilities for research by other persons.”

Clause 64

LORD LANSLEY
BARONESS THORNTON

The above-named Lords give notice of their intention to oppose the Question that Clause 64 stand part of the Bill.

Clause 67

BARONESS HOLLINS
BARONESS TYLER OF ENFIELD
LORD PATEL

197 Page 61, line 32, after first “the” insert “physical and mental”

Member's explanatory statement

This amendment will require decisions on licensing of health care to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness, replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

198 Page 61, line 38, after first “of” insert “physical and mental”

Member's explanatory statement

This amendment will require decisions on licensing of health care to prioritise both the physical and mental health and well-being of the people of England and to work towards the prevention, diagnosis or treatment of both physical and mental illness, replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

Clause 68

LORD LANSLEY

Lord Lansley gives notice of his intention to oppose the Question that Clause 68 stand part of the Bill.

Schedule 10

BARONESS THORNTON

199 Page 214, leave out lines 27 to 36 and insert –

- “(1) The Secretary of State must make provision for rules for determining the price that is to be paid by a commissioner –
- (a) for the provision of healthcare services for the purposes of the NHS;
 - (b) for the provision of services in pursuance of arrangements made by NHS England or an integrated care board in the exercise of any public health functions of the Secretary of State, within the meaning of the National Health Service Act 2006, by virtue of any provision of that Act.
- (1A) NHS England must publish a document, to be known as the NHS payment scheme, containing rules as required in subsection (1).”

Member's explanatory statement

The amendment provides that the Secretary of State must set out rules for determining the price to be paid for NHS services.

200 Page 214, line 36, at end insert –

- “(1A) NHS England must obtain the agreement of the Secretary of State before publishing a document under subsection (1).”

Member's explanatory statement

The amendment ensures that the key policy document covering the prices to be paid for NHS services is approved by the Secretary of State.

LORD STEVENS OF BIRMINGHAM
BARONESS YOUNG OF OLD SCONE
BARONESS HAYMAN
LORD PRIOR OF BRAMPTON

201 Page 215, line 12, at end insert –

- “(3A) The NHS payment scheme published under subsection (1) must take account of the duty imposed by section 1 of the Climate Change Act 2008, and set out how the scheme will contribute to its achievement.”

Member's explanatory statement

This amendment would require the NHS payment scheme to support action to meet the UK's net zero emissions targets.

LORD HENDY
BARONESS BLOWER

201A Page 215, line 14, at end insert –

“(4A) Rules under subsection (1) must –

- (a) provide that the agreed price properly accommodates the establishment and maintenance of terms and conditions of employment of workers of the providers of services mentioned in subsection (1) which are and will remain at any point in time equivalent to the terms and conditions of employment enjoyed by NHS staff employed in the public sector;
- (b) ensure that the terms and conditions of all workers affected are negotiated between trade unions representing NHS staff employed in the public sector and the employers of those staff;
- (c) require that the agreed price is payable only so long as and in respect of periods in which the terms and conditions of employment of workers of the providers of services mentioned in subsection (1) are at every point in time equivalent to the terms and conditions of employment enjoyed by NHS staff employed in the public sector; and
- (d) provide that the prices agreed by commissioners for the provision of health care services are the same for all providers of equivalent services whether in the public or private sector.”

Member's explanatory statement

This amendment is intended to ensure that privatisation of NHS services do not undermine the terms and conditions of equivalent workers in the NHS.

LORD HENDY
LORD DAVIES OF BRIXTON
BARONESS BLOWER

201B Page 216, line 11, after “following” insert “on the likely impact of the proposed scheme”

Member's explanatory statement

This amendment, along with another amendment to Schedule 10, page 216 in the name of Lord Hendy, is intended to expand the scope of consultations and ensure that the relevant workers, through their unions, are included in them.

201C Page 216, line 13, at end insert –

- “(ba) all trade unions representing workers employed –
- (i) by or in services for which each integrated care board is responsible;
 - (ii) by each relevant provider; or

Schedule 10 - continued

- (iii) by any other provider of equivalent services in the public sector.”

Member’s explanatory statement

This amendment, along with another amendment to Schedule 10, page 216 in the name of Lord Hendy, is intended to expand the scope of consultations and ensure that the relevant workers, through their unions, are included in them.

LORD LANSLEY

- 202 Page 217, line 8, at end insert –
“(2A) For the purposes of subsection (1)(b) the prescribed percentage may not exceed 20%.”

BARONESS THORNTON

- 202A Page 218, line 29, after “under” insert “section 114A(1) or”

Member’s explanatory statement

This amendment and another to Schedule 10 provide that the Secretary of State must set out rules for determining the price to be paid for NHS services and that this is subject to Parliamentary scrutiny.

Clause 69

BARONESS MEACHER
BARONESS JONES OF MOULSECOOMB
BARONESS GREENGROSS
LORD WARNER

- 203 Page 62, line 19, at end insert –
“(1AA) The regulations must make provision –
(a) for anyone with a diagnosis of terminal illness to be offered a conversation about their holistic needs, wishes and preferences for the end of their life, including addressing support for their mental and physical health and wellbeing, financial and practical support, and support for their social relationships,
(b) that, where that individual lacks capacity for such a conversation, it is offered to another relevant person, and
(c) that for the purposes of section 12ZB a relevant authority must have regard to the needs and preferences recorded in such conversations in making decisions about the procurement of services.”

Member’s explanatory statement

This amendment ensures that the scope of the regulations as to patient choice includes those at the end of life.

LORD HUNT OF KINGS HEATH
BARONESS THORNTON

204 Page 62, line 26, at end insert –

- “(1C) Before regulations which include a patient choice requirement may be made under this section, the Secretary of State must consult the following bodies –
- (a) Healthwatch England;
 - (b) the Patients Association;
 - (c) such other persons as the Secretary of State considered appropriate.”

Member’s explanatory statement

The amendment would ensure that before any regulations are laid on patient choice, the Secretary of State must consult Healthwatch England, the Patients Association and other relevant bodies.

After Clause 69

BARONESS MORGAN OF COTES
BARONESS FRASER OF CRAIGMADDIE

205 Insert the following new Clause –

“Access to treatment and services across the United Kingdom

- (1) Welsh Ministers, Scottish Ministers and a Northern Ireland department must make regulations providing that the choices available to patients in England by virtue of regulations under section 6E(1A) or (1B) of the National Health Service Act 2006 (inserted by section 69 of this Act) are available to patients for whom they have responsibility.
- (2) Regulations under subsection (1) must provide for payment for treatment of patients to whom the regulations apply to be made by the appropriate health service body.
- (3) In subsection (2), the “appropriate health service body” means –
 - (a) in the case of regulations made by Welsh Ministers, a Health Board,
 - (b) in the case of regulations made by Scottish Ministers, an NHS Board, and
 - (c) in the case of regulations made by a Northern Ireland department, the Health and Social Care Board.
- (4) The choices which persons are enabled to make by virtue of regulations under section 6E(1A) and (1B) of the National Health Service Act 2006 (inserted by section 69 of this Act) must include the choice to access treatments and services in Wales, Scotland and Northern Ireland, and Welsh Ministers, Scottish Ministers and a Northern Ireland department must ensure that any such treatments and services which are available to patients in Wales, Scotland or (as the case may be) Northern Ireland are available to patients in England.”

Member’s explanatory statement

This new Clause would extend the choice of NHS treatments and services which is available to patients in England to patients in any part of the United Kingdom. It would also enable patients in England to exercise the same choices of treatments and services in other parts of the United Kingdom.

Clause 70

BARONESS MERRON

206 Page 63, line 40, at end insert –

“(c) other services which are required for the purpose of the prevention of illness, the care and after-care of persons suffering from illness, and the treatment of illness as NHS England considers appropriate as part of the health service.”

Member’s explanatory statement

This amendment extends the scope of the NHS bespoke procurement regime so that it covers patient related services, such as catering, porters, cleaners and other services required for patient care and safety beyond the narrower definition of health care services.

207 Page 64, line 6, at end insert –

“(3A) The regulations must provide that –

- (a) where the healthcare service has been or is being provided by an NHS trust or NHS foundation trust then there is a presumption in favour of contracts for such service being awarded to NHS trusts and NHS foundation trusts,
- (b) where it is proposed to award a contract for such services to any body other than an NHS trust or NHS foundation trust then the commissioning body responsible must –
 - (i) conduct a consultation and set out the reasons given for the proposal,
 - (ii) specify the full terms and conditions of the proposed contract, and
 - (iii) specify that the terms and conditions for staff under the proposed contract must be at least equivalent to NHS terms and conditions.”

Member’s explanatory statement

The amendment ensures that the Regulations for provider selection (procurement) for healthcare services are based on a preference for services to be provided by the NHS itself rather than outsourced.

BARONESS THORNTON

LORD PATEL

BARONESS WALMSLEY

BARONESS BENNETT OF MANOR CASTLE

208 Page 64, line 6, at end insert –

“(3A) The regulations must make provision that before a contract for a service listed in subsection (1)(a), with an annual value in excess of £5 million, may be awarded to an organisation that is not an NHS trust or NHS foundation trust, the following requirements must be met –

- (a) the business case for the award of the contract must be published;
- (b) any responses to the proposal in the business case must be considered and published;

Clause 70 - continued

- (c) the process for awarding the contract must be open and transparent and non-discriminatory at every stage, including (but not limited to) –
 - (i) procurement strategy and plan,
 - (ii) invitation to tender,
 - (iii) responses to invitations,
 - (iv) evaluation of tenders,
 - (v) decision to award, and
 - (vi) contract awarded;
 - (d) the process for awarding the contract must demonstrate due regard to the principles established in the Public Contracts Regulations 2015 (S.I. 2015/102) or any regulations which may supersede them;
 - (e) in any case where it is claimed that an emergency justifies an award without the process being used, the responsible body must within 14 days publish the business case for the award of the contract and the record of the decision.
- (3B) The provisions in subsection (3A) do not apply where a contract is provided for primary medical services, primary dental services or primary ophthalmology services.”

Member’s explanatory statement

This amendment ensures that any NHS specific provider selection regime (procurement regulations) must require proper processes are followed before any significant contracts are awarded outside the NHS.

BARONESS THORNTON

209 Page 64, line 6, at end insert –

“(3A) The regulations must ensure that the arranging (procuring and sub-contracting) of healthcare services by public bodies for the purposes of the health service in England is not to be included within the scope of any future trade agreements.”

Member’s explanatory statement

This replicates the wording of the requirement set out in the proposed NHS Provider Selection Regime to ensure the NHS has its own bespoke procurement arrangements.

LORD STEVENS OF BIRMINGHAM
 BARONESS YOUNG OF OLD SCONE
 BARONESS HAYMAN
 LORD PRIOR OF BRAMPTON

210 Page 64, line 6, at end insert –

“(3A) The regulations must contain provisions that support meeting the duty imposed by section 1 of the Climate Change Act 2008.”

Member’s explanatory statement

This amendment would require NHS procurement regulations to incentivise action to meet the UK’s net zero emissions targets.

LORD MAWSON
BARONESS CUMBERLEGE
LORD CLEMENT-JONES
BARONESS ANDREWS

210A Page 64, line 6, at end insert –

“(3A) The regulations must ensure that procurement of services from local providers, in particular local community organisations, are prioritised, in order to develop coherent place-based approaches which address the social determinants of health.

(3B) The regulations must ensure that innovative approaches are prioritised to achieve this objective.”

LORD HUNT OF KINGS HEATH
BARONESS THORNTON
BARONESS BENNETT OF MANOR CASTLE

211 Page 64, line 8, at end insert –

“(4A) NHS England must publish guidance on how social value will be implemented by relevant authorities.”

Member’s explanatory statement

This amendment would require NHS England to publish guidance on how social value will be implemented by authorities. Social value is the process of ensuring that all public spending maximises social, economic and environmental wellbeing of the community on whose behalf goods or services are being provided.

BARONESS THORNTON

212 Page 64, line 22, at end insert –

“(8) The provisions of this section expire three years after the day on which they are commenced.”

Member’s explanatory statement

This amendment places a sunset condition on this section. This is recommended due to the scope of powers given to the Secretary of State through regulations to change procurement policy.

LORD SHARKEY
BARONESS THORNTON

213 Page 64, line 22, at end insert –

“(8) Regulations made under the powers set out in subsections (1) to (3) are subject to the “super affirmative procedure” as set out in subsections (9) to (16).

(9) The Secretary of State must lay before Parliament –

(a) a draft of the regulations, and

(b) a document which explains the draft regulations.

(10) Where a draft of the regulations is laid before Parliament under subsection (9), no statutory instrument containing the regulations may be laid before Parliament until after the expiry of the 30-day period.

Clause 70 - continued

- (11) The Secretary of State must request a committee of either House of Parliament whose remit includes health, science or technology to report on the draft regulations within the 30-day period.
- (12) In preparing a draft statutory instrument containing the regulations, the Secretary of State must take account of—
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee under subsection (11), made within the 30-day period with regard to the draft regulations.
- (13) If, after the 30-day period, the Secretary of State wishes to make regulations in the terms of the draft or a revised draft, he or she must lay before Parliament a statement—
 - (a) stating whether any representations, resolutions or recommendations were made under subsection (12);
 - (b) giving details of any representations, resolutions or recommendations so made; and
 - (c) explaining any changes made in any revised draft of the regulations.
- (14) The Secretary of State may make a statutory instrument containing the regulations (whether or not revised) if, after the laying of the statement required under subsection (13), a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (15) In this section, references to “the 30-day period” in relation to any draft regulations is to the period of 30 days beginning with the day on which the original draft regulations were laid before Parliament.
- (16) For the purposes of subsection (15) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.”

LORD LANSLEY
BARONESS WALMSLEY
BARONESS THORNTON

The above-named Lords give notice of their intention to oppose the Question that Clause 70 stand part of the Bill.

After Clause 70

LORD BLENCATHRA
 BARONESS KENNEDY OF THE SHAWES
 LORD ALTON OF LIVERPOOL
 BARONESS HODGSON OF ABINGER

213A Insert the following new Clause –

“Health service procurement and supply chains: genocide convention obligations

- (1) Regulations whether made under section 70 or otherwise may, in particular, make provision for the purposes of ensuring that procurement of all goods and services for the purposes of the health service in England is consistent with the United Kingdom's obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.
- (2) For the purposes of subsection (1), procurement is not consistent if a Minister of the Crown has assessed that there is a serious risk of genocide in the sourcing region.
- (3) A Minister of the Crown must make an assessment as to whether there is serious risk if the chair of a relevant select committee of either House of Parliament requests one, and must complete such assessment within two months.”

After Clause 79

BARONESS FINLAY OF LLANDAFF
 LORD BRADLEY

214 Insert the following new Clause –

“Workforce boards

- (1) Each integrated care board must establish a workforce board to advise on –
 - (a) the number of persons in that area regulated under any of the following –
 - (i) the Health Professions Order 2001;
 - (ii) the Dentists Act 1984;
 - (iii) the Opticians Act 1989;
 - (iv) the Osteopaths Act 1993;
 - (v) the Chiropractors Act 1994;
 - (vi) the Nursing and Midwifery Order 2001;
 - (vii) the Medical Act 1983;
 - (viii) the Pharmacy Order 2010 and the Pharmacy (Northern Ireland) Order 1976;
 - (b) the number of any other persons required to provide safe and effective care for the population served by the integrated care board; and
 - (c) the training and development of the health and care workforce, including persons regulated by the Health Professions Order 2001, in that area.
- (2) Each workforce board must include –
 - (a) at least one person regulated under the Health Professions Order 2001,
 - (b) at least one person regulated under the Nursing and Midwifery Order 2001,

After Clause 79 - continued

- (c) at least one person regulated under the Medical Act 1983, and
 - (d) at least one representative of trade unions recognised as representing NHS employees.
- (3) Each workforce board must consult with professional bodies representing health or social care staff.”

Member’s explanatory statement

This probing amendment would require ICBs to establish an advisory workforce mechanism with representation from all of the professions including AHPs to help plan the workforce and to ensure training and continuous professional development is planned and supported.

Clause 80

LORD DAVIES OF BRIXTON

Lord Davies of Brixton gives notice of his intention to oppose the Question that Clause 80 stand part of the Bill.

After Clause 80

BARONESS MERRON
BARONESS TYLER OF ENFIELD
LORD WARNER
LORD PATEL

215 Insert the following new Clause –

“Secretary of State’s duty to report on waiting times for treatment

The Secretary of State must prepare and publish an annual report on waiting times for treatment in England, including disparities in waiting times for treatment in England and the steps being taken to ensure that patients can access services within maximum waiting times in accordance with their rights in the NHS Constitution.”

Member’s explanatory statement

The Clause would require the Secretary of State to publish an annual report on waiting times for treatment in England, and steps being taken to ensure patients can access services within minimum waiting times in accordance with their rights under the NHS Constitution.

BARONESS MERRON

216 Insert the following new Clause –

“Consultation on service changes

- (1) The Secretary of State is required to ensure that NHS staff are engaged in and consulted on decisions that affect them and the services they provide.
- (2) Engagement under this section may be done individually, through representative organisations or through local partnership working arrangements.

After Clause 80 - continued

- (3) The Secretary of State is required to ensure that staff consulted under this section are provided with all relevant information that will be considered before decisions are made.”

Member’s explanatory statement

The Clause would insert into legislation the pledge to engage staff in decisions that affect them and the services they provide, as set out in the NHS Constitution.

BARONESS WHEELER

217 Insert the following new Clause—

“Social care needs assessments

- (1) A social care needs assessment must be carried out by the relevant local authority before a patient is discharged from hospital or within 2 weeks of the date of discharge.
- (2) Each integrated care board must agree with all relevant local authorities the process to apply for social care needs assessment in hospital or after discharge, including reporting on any failures to complete required assessments within the required time and any remedies or penalties that would apply in such cases.
- (3) Each integrated care board must ensure that—
- (a) arrangements made for the discharge of any patient without a relevant social care needs assessment are made with due regard to the care needs and welfare of the patient, and
 - (b) the additional costs borne by a local authority in caring for a patient whilst carrying out social care needs assessments after a patient has been discharged are met in full.
- (4) The Secretary of State must publish an annual report on the effectiveness of assessment of social care needs after hospital discharge, including the number of patients readmitted within 28 days.”

Member’s explanatory statement

This amendment would create protections for the provision of social care needs assessments. It includes requiring an assessment to be carried out either before a patient is discharged from hospital or within two weeks of discharge; and requiring ICBs to agree a process for the provision of assessments.

LORD HUNT OF KINGS HEATH

LORD WARNER

BARONESS BENNETT OF MANOR CASTLE

218 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.

After Clause 80 - continued

- (3) An order establishing the Board must provide for the constitution, remit and funding of the board.
- (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
BARONESS PITKEATHLEY
BARONESS WATKINS OF TAVISTOCK

219 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.

LORD HUNT OF KINGS HEATH
LORD PATEL
BARONESS MASHAM OF ILTON

220 Insert the following new Clause –

“Healthwatch England

- (1) There is to be a body corporate known as Healthwatch England.
- (2) The Secretary of State must by regulations set out the functions of Healthwatch England.
- (3) The Secretary of State may by regulations provide for –
 - (a) the establishment and constitution of the board of Healthwatch England, and
 - (b) the financing of Healthwatch England.
- (4) Healthwatch England must prepare and submit an annual report of its activities to Parliament.
- (5) The Secretary of State may by regulation amend, delete or add to sections 181 and 182 of the Health and Social Care Act 2012 and other relevant legislation.”

Member’s explanatory statement

The aim is to establish Healthwatch England as an independent body rather than as a subcommittee of CQC.

BARONESS PITKEATHLEY
LORD YOUNG OF COOKHAM
BARONESS TYLER OF ENFIELD
LORD WARNER

221 Insert the following new Clause—

“Protection of carers’ rights

- (1) In advance of discharging a patient from hospital, the NHS body must identify and consult any carer who is about to provide or will be providing care.
- (2) This consultation must seek to establish in relation to any health-related services—
 - (a) whether the carer requires any additional services for which the NHS has responsibility, including information, to be provided to the patient in order to ensure that the patient is safe to discharge,
 - (b) whether the carer requires any additional services for which the NHS has responsibility, including information, to be provided to the carer in order to ensure that they are able to care safely, and
 - (c) any wishes that the carer has for work, education and leisure.
- (3) In carrying out the consultation with the carer, the NHS body must establish whether the carer is willing and able to care.
- (4) Having carried out the consultation with the carer, the NHS body must co-operate with the local authority in relation to their duties towards carers under the Care Act 2014.
- (5) “Carer” has the meaning in section 10 of the Care Act 2014, sections 96 and 97 of the Children and Families Act 2014 and section 1 of the Carers (Recognition and Services) Act 1995.”

BARONESS THORNTON
BARONESS BENNETT OF MANOR CASTLE

222 Insert the following new Clause—

“Cap on private charges

- (1) Section 43 of the National Health Service Act 2006 is amended as follows.
- (2) After subsection (2A) insert—
 - “(2B) An NHS foundation trust does not fulfil its principal purpose if in any financial year the proportion of the total income of the trust derived from private charges is greater than in the previous financial year unless—
 - (a) the appropriate integrated care boards and integrated care partnerships have been notified of the intention that this increase will occur;
 - (b) that intention has been published with a statement of the reasons why it is considered to benefit the NHS;
 - (c) the appropriate integrated care boards and integrated care partnerships have used reasonable endeavours to consider any responses to the publication mentioned in paragraph (b); and

After Clause 80 - continued

- (d) any integrated care board which has commissioned services from the trust, and the integrated care partnership for the board, have informed the NHS foundation trust that the proposed increase is justified.
- (2C) For the purposes of subsection (2B) “private charges” means charges imposed in respect of goods and services provided to patients other than patients being provided with goods and services for the purposes of the health service.””

Member’s explanatory statement

The amendment prevents any Foundation Trust from increasing its income from private patients unless this is agreed by the relevant commissioning bodies and the appropriate integrated care partnerships.

BARONESS THORNTON

223 Insert the following new Clause –

“Repeal of power for NHS trusts and NHS foundation trusts to form subsidiary companies

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 46 (financial powers), omit subsection (5).
- (3) In Schedule 4 (NHS trusts established under section 25), in paragraph 20, after sub-paragraph (2) insert –
 - “(2A) The Secretary of State may not consent to the formation or participation in ownership of a subsidiary company by an NHS trust.””

Member’s explanatory statement

This new Clause removes the power for NHS Trusts and NHS Foundation Trusts to form subsidiary companies.

LORD HUNT OF KINGS HEATH
BARONESS THORNTON
BARONESS BENNETT OF MANOR CASTLE

224 Insert the following new Clause –

“Access to NHS dentistry

The Secretary of State must, within one year of the passing of this Act, publish a statement setting out what measures the Government is taking to ensure universal access to NHS dentistry.”

Member’s explanatory statement

This new Clause would require the Secretary of State to publish a statement of what measures the Government is taking to ensure universal access to NHS dentistry.

BARONESS HOLLINS
BARONESS PITKEATHLEY
BARONESS WHEELER

225 Insert the following new Clause—

“Definition of “carers”

In this Act, any reference to carers includes—

- (a) carers as defined by section 10(3) and (9) of the Care Act 2014,
- (b) parents of disabled children with reference to section 97 of the Children and Families Act 2014,
- (c) any unpaid carers of disabled children as in section 1 of the Carers (Recognition and Services) Act 1995,
- (d) any young carers with reference to section 96 of the Children and Families Act 2014, and
- (e) any young carers with reference to section 63(6) and (7) of the Care Act 2014.”

Clause 4

LORD KAMALL

225A Page 2, line 35, leave out from “objectives” to “, and” in line 38 and insert “specified by the Secretary of State under subsection (2)(a) for NHS England must include objectives relating to outcomes for cancer patients”

Member’s explanatory statement

This amendment changes the focus of the cancer outcomes objectives so that they cover matters other than treatment (e.g. early diagnosis).

225B Page 2, line 39, after “relating” insert “specifically”

Member’s explanatory statement

This amendment makes it clear that the objectives over which the cancer outcomes objectives have priority are those which relate specifically to cancer.

225C Page 2, leave out line 40

Member’s explanatory statement

This amendment means that cancer outcomes objectives will have priority over any other objectives relating to cancer (not just those relating to cancer treatment).

After Clause 4

LORD RENNARD
LORD HUNT OF KINGS HEATH

226 Insert the following new Clause—

“NHS England: duty to promote self-management

After section 13F of the National Health Service Act 2006 insert—

“13FA Duty to promote self-management

After Clause 4 - continued

NHS England, in the exercise of its functions, must promote the self-management of long-term conditions through investment in technological, interprofessional, and public educational innovation.””

Member’s explanatory statement

This amendment would ensure that NHS England promotes active patient self-management for long-term conditions, where clinically suitable, through greater investment in technological innovation, and workforce and public education on its merits.

Clause 136

LORD KAMALL

232 Page 112, line 10, leave out “an Act of” and insert “a Bill in”

Member’s explanatory statement

This amendment makes a drafting change to reflect the fact that consent of the Secretary of State under section 8 of the Northern Ireland Act 1998 is given in relation to an Assembly Bill rather than an Assembly Act.

LORD SHARKEY

Lord Sharkey gives notice of his intention to oppose the Question that Clause 136 stand part of the Bill.

Clause 140

LORD KAMALL

232A Page 116, line 41, leave out from beginning to end of line 9 on page 117 and insert—

- “(a) in relation to eligible needs met by a local authority, to any amount the local authority charged the adult under section 14(1)(a) or 48(5) for meeting those needs;
- (b) in relation to eligible needs met by a person other than a local authority, to what the cost of meeting those eligible needs would have been to the local authority that was the responsible local authority when the needs were met.”

Member’s explanatory statement

This amendment de-couples the costs that accrue towards the care cap from the costs specified in the budgets and simplifies the drafting for determining those costs that accrue.

232B Page 117, leave out lines 13 and 14 and insert “at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult”

Member’s explanatory statement

This amendment means that, where there is a delay in carrying out a needs assessment or a delay in preparing a budget, costs incurred by an adult after the local authority was required to carry out a needs assessment will accrue towards the care cap.

BARONESS BULL
 BARONESS BENNETT OF MANOR CASTLE
 BARONESS CAMPBELL OF SURBITON
 LORD LANSLEY

233 Page 117, line 22, at end insert –

“(2A) In section 15 (cap on care costs), in subsection (4) leave out “may” and insert “must”.”

Member’s explanatory statement

This amendment will require regulations to set out the provisions listed in Care Act 2014 section 15(4).

BARONESS BULL
 BARONESS CAMPBELL OF SURBITON
 LORD LANSLEY

234 Page 117, line 22, at end insert –

“(2A) In section 15 (cap on care costs), after subsection (4) insert –

“(4A) The regulations must ensure that, for the purposes of this Part, “persons of a specified description” include people who receive, or have received, care and support on or before the age of 40, as a result of meeting the eligibility criteria set out in section 13 (the eligibility criteria).”

Member’s explanatory statement

This amendment will require regulations to set out that persons entering the care system at or under the age of 40 will have their care costs capped at £0. This would apply to new applicants as well as existing care users who, while over the age of 40, have been accessing care and support since before the age of 40.

LORD KAMALL

234A Page 117, line 25, after “Where” insert “, following a determination under section 13(1),”

Member’s explanatory statement

This amendment clarifies that a local authority is only required to prepare an independent personal budget when there has been an eligibility determination.

234B Page 117, leave out lines 30 to 32 and insert –

“(b) the adult has at any time either –

- (i) asked a local authority that was, at that time, the responsible local authority, to prepare an independent personal budget, or
- (ii) had needs met by a local authority as mentioned in section 24(1).”

Member’s explanatory statement

This amendment means that the responsible local authority will automatically be required to prepare an independent personal budget where an adult with eligible needs has a personal budget and then no longer has any needs met by a local authority.

- 234C** Page 117, leave out lines 37 to 42 and insert –
- “(a) the current cost to the local authority of meeting those needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and
 - (c) the balance, if any, of the cost referred to in paragraph (a).”

Member’s explanatory statement

This amendment means that the personal budget will specify the cost the local authority is incurring in meeting needs, the cost the local authority is charging the adult under section 14(1)(a) for meeting those needs and the balance of the two costs.

- 234D** Page 117, leave out lines 45 to 48 and insert –
- “(a) the current cost to the local authority of meeting those eligible needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and”

Member’s explanatory statement

This amendment means that the personal budget will specify the cost the local authority is incurring in meeting eligible needs and the cost the local authority is charging the adult under section 14(1)(a) for meeting those eligible needs.

- 234E** Page 118, line 3, after “adult” insert “has needs which a local authority is required or decides to meet as mentioned in section 24(1) and”

Member’s explanatory statement

This amendment clarifies that the personal budget is only required to specify costs in respect of eligible needs which are not being met by any local authority, if a local authority is meeting some of the adult’s needs.

- 234F** Page 118, leave out lines 5 and 6 and insert –
- “(a) what the current cost would be to the responsible local authority of meeting those eligible needs, and”

Member’s explanatory statement

This amendment means that, in relation to eligible needs that are not being met by a local authority, the personal budget must specify what it would currently cost the responsible local authority to meet those needs.

- 234G** Page 118, leave out lines 9 to 13

Member’s explanatory statement

This amendment leaves out language that is no longer needed in light of the amendment to page 117, lines 37 to 42 and the amendment to page 117, lines 45 to 48 that both appear in the Minister’s name.

- 234H** Page 118, line 17, leave out from beginning to “(but” in line 18 and insert “what the current cost would be to the responsible local authority of meeting the adult’s eligible needs”

Member's explanatory statement

This amendment means that, in relation to eligible needs that are not being met by a local authority, the independent personal budget must specify what it would currently cost the responsible local authority to meet those needs.

- 234J** Page 118, line 21, after “authority” insert “or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)”

Member's explanatory statement

This amendment clarifies that the independent personal budget does not need to specify costs in respect of eligible needs which are not being met by any local authority if a local authority is meeting some of the adult's needs (those costs will be in the adult's personal budget).

- 234K** Page 118, line 22, leave out paragraph (b)

Member's explanatory statement

This amendment leaves out language that is no longer needed in light of the amendment to page 118, line 17 that appears in the Minister's name.

- 234L** Page 118, line 32, leave out subsections (7) and (8) and insert –

“(7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute –

“(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

(8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute –

“(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

Member's explanatory statement

This amendment is consequential on the amendment to page 117, lines 37 to 42 that appears in the Minister's name.

BARONESS WHEELER
BARONESS CAMPBELL OF SURBITON
LORD WARNER
LORD LANSLEY

The above-named Lords give notice of their intention to oppose the Question that Clause 140 stand part of the Bill.

Member's explanatory statement

This removes Clause 140, which was not considered in the Commons Bill Committee, and which sets out provisions about how one aspect of the cost cap is to be treated.

After Clause 140

BARONESS GREENGROSS
 BARONESS BENNETT OF MANOR CASTLE
 LORD WARNER
 BARONESS CAMPBELL OF SURBITON

235 Insert the following new Clause—

“Social care cap

- (1) The Secretary of State must pay or reimburse any expenditure incurred by any individual for social care services exceeding the maximum for social care contributions in that individual’s lifetime in accordance with this section.
- (2) The maximum for social care contributions in any individual’s lifetime for 2022 is £50,000.
- (3) The maximum for social care contributions in any individual’s lifetime for each subsequent year must be set by regulations made by the Secretary of State in accordance with subsection (4).
- (4) The regulations must provide that the maximum changes from the previous year by a proportion that is in line with care cost inflation.”

Member’s explanatory statement

The 2011 Dilnot report recommended that the contribution cap be set at £35,000 at that time. Care cost inflation runs at 1.5% above CPI, so to replicate the 2011 recommendation adjusting for this the cap would now be set at £50,000.

BARONESS FINLAY OF LLANDAFF

236 Insert the following new Clause—

“Registration of tertiary prevention activities in respect of provision of social care

In section 9 of the Health and Social Care Act 2008, in subsection (3) at the end insert “or any form of reablement and rehabilitation provided under section 2 of the Care Act 2014 to reduce the need for care and support”.

Member’s explanatory statement

This new Clause would bring reablement and rehabilitation provided under Section 2 of the Care Act 2014 to reduce the need for care and support into the purview of the Care Quality Commission.

Clause 141

BARONESS BENNETT OF MANOR CASTLE

237 Page 119, line 17, at end insert—

- “(c) after subsection (2) insert—
- “(3) No financial assistance provided under this section may be used for the purposes of—
- (a) repaying debt;
 - (b) paying interest on debt;
 - (c) making distributions to shareholders.””

Member's explanatory statement

This amendment ensures that financial assistance given by the Secretary of State is not distributed to shareholders or used to repay debt obligations.

After Clause 141

BARONESS BENNETT OF MANOR CASTLE

238 Insert the following new Clause –

“Review of financial regulation of companies providing social care

- (1) Within six months of the passing of this Act, the Secretary of State must carry out and publish a review of the financial regulation of companies providing social care with a view to ensuring it supports the effective provision of social care.
- (2) The review in subsection (1) must consider the impacts of regulation on –
 - (a) the quality of care provided;
 - (b) pay and conditions for care workers;
 - (c) costs to local authorities and other commissioning bodies;
 - (d) risks to the stability and viability of the social care sector.
- (3) The review must include analysis of the following options for the future of the financial regulation of the social care sector –
 - (a) requiring any company or group providing social care services to be registered in the United Kingdom;
 - (b) imposing restrictions on when companies can sell or transfer care home assets in the United Kingdom;
 - (c) requiring companies providing social care to meet certain financial criteria, such as specified debt-to-asset ratios.”

Member's explanatory statement

This amendment would require a review of the impacts of financial regulation on the social care sector.

239 Insert the following new Clause –

“Financial transparency of offshore corporate groups providing social care

- (1) Public commissioning bodies in England may not commission social care services from any company not domiciled in the United Kingdom which does not publish full annual accounts.
- (2) Where a company is part of a group, the accounts referred to in subsection (1) must provide a complete picture of all related companies within the group.”

Member's explanatory statement

This amendment would require corporate entities registered or with parent companies offshore or in tax havens that are providing social care services in England to publish full group accounts, as companies registered in the UK are already required to do.

Clause 142

LORD SHARKEY
BARONESS WHEELER

240 Page 121, line 6, at end insert –

“(da) after subsection (2) insert –

“(2ZZB) The regulation of health professions and social care workers must be used where possible to raise professional awareness of rare and less common conditions.””

Member’s explanatory statement

This amendment would require professional regulators to support improved awareness of rare and less common conditions amongst health and care professionals.

BARONESS FINLAY OF LLANDAFF

241 Page 121, line 7, at end insert –

“(f) after subsection (2ZC)(n) insert –

“(o) the provision of reablement or rehabilitation provided to reduce the need for care and support for persons in England under section 2 of the Care Act 2014.””

Member’s explanatory statement

This change would bring staff providing reablement and rehabilitation services into regulation, in the same way as other professions involved in delivery of regulated adult social care activities.

BARONESS FRASER OF CRAIGMADDIE
BARONESS FINLAY OF LLANDAFF

242 Page 121, line 39, at end insert –

“(d) in paragraph 9 (preliminary procedure for making Orders), after subparagraph (1) insert –

“(1ZA) When making and consulting on a draft Order, the Secretary of State must have regard to the following criteria –

- (a) the maintenance of regulatory independence;
- (b) the maintenance of professional identities;
- (c) the encouragement of collaboration between regulators;
- (d) improved efficiency in professional regulation; and
- (e) any other considerations deemed relevant.””

Member’s explanatory statement

This is probing amendment to explore what criteria the Government intends to use in making an Order under Clause 142 to alter the professional regulatory framework.

BARONESS THORNTON
BARONESS WALMSLEY

The above-named Lords give notice of their intention to oppose the Question that Clause 142 stand part of the Bill.

After Clause 142

BARONESS MERRON
 BARONESS WATKINS OF TAVISTOCK
 BARONESS WALMSLEY
 LORD PATEL

243 Insert the following new Clause—

“Protection of the title “nurse”

- (1) A person may not practise or carry on business under any name, style or title containing the word “nurse” unless that person is registered with the Nursing and Midwifery Council and entered in sub part 1 or 2 of the register as a Registered Nurse or in the specialist community public health nursing part of the register.
- (2) Subsection (1) does not prevent any use of the designation “veterinary nurse”, “dental nurse” (for which see section 36K of the Dentists Act 1984) or “nursery nurse”.
- (3) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level four on the standard scale.”

Member’s explanatory statement

This would create legal protection for use of the title “nurse”, to address concerns of it being used inappropriately.

After Clause 143

LORD KAMALL

243A Insert the following new Clause—

“Human fertilisation and embryology

Storage of gametes and embryos

Schedule (*Storage of gametes and embryos*)—

- (a) contains amendments to the Human Fertilisation and Embryology Act 1990 which make provision relating to the storage of gametes and embryos, and
- (b) makes transitional provision in relation to those amendments.”

Member’s explanatory statement

This new Clause introduces a new Schedule relating to the storage of gametes and embryos.

Clause 144

BARONESS FINLAY OF LLANDAFF
 LORD SHIPLEY
 BARONESS BENNETT OF MANOR CASTLE

244 Page 123, line 39, at end insert—

- “(2) The Secretary of State must, no later than one year after this Act is passed, consult on including alcoholic products in the definition of less healthy products for which advertising will be restricted, and publish a report on the consultation.”

Member's explanatory statement

This amendment would require the Secretary of State to consult on including alcohol in the proposed advertising restrictions for less healthy food and drink and publish a report.

BARONESS BOYCOTT

244A Page 123, line 39, at end insert –

“(2) Within six months of the passing of this Act, the Secretary of State must review whether it is desirable to impose further restrictions on the advertising of an identifiable less healthy food or drink product within the definition given by paragraph 1 of Schedule 17, in particular in relation to outdoor advertising.”

Schedule 17

LORD VAIZEY OF DIDCOT

LORD CLEMENT-JONES

LORD MOYLAN

LORD BLACK OF BRENTWOOD

245 Page 234, line 20, after “standards” insert “to come into force no earlier than one year following the publication of final guidance by OFCOM or other appropriate regulatory authority”

Member's explanatory statement

This amendment and other amendments to Schedule 17 in the name of Lord Vaizey of Didcot extend the implementation period in consideration of the fact that advertising campaigns can take up to a year or more from initial conception through to production, media planning and media buying and publication/broadcast.

LORD VAIZEY OF DIDCOT

LORD CLEMENT-JONES

LORD GRADE OF YARMOUTH

245A Page 234, line 22, after “pm” insert “on Saturdays and Sundays”

LORD KAMALL

246 Page 234, line 23, at end insert –

“(1A) OFCOM must ensure that the prohibition provided for by the first standards set by virtue of subsection (1) takes effect from the beginning of 1 January 2023.”

Member's explanatory statement

This amendment ensures that the watershed on television advertising of unhealthy food and drink will not apply until 1 January 2023.

LORD MOYLAN

LORD VAIZEY OF DIDCOT

LORD CLEMENT-JONES

LORD BLACK OF BRENTWOOD

247 Page 234, line 31, at end insert –

“(2A) A brand may continue to advertise, or provide sponsorship, if the advertisement or expression of sponsorship does not include an identifiable less healthy food and drink product.”

Member's explanatory statement

This amendment and others in Schedule 17 in the name of Lord Moylan write the brand advertising exemption intended by the Government into the legislation, providing legal certainty to businesses.

LORD CLEMENT-JONES
BARONESS WALMSLEY

- 247A** Page 235, leave out lines 3 to 10 and insert –
“(c) a food or drink product is “less healthy” if it is prescribed as such by the Secretary of State in regulations;”

Member's explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are “less healthy” by regulations rather than leaving the definition to guidance.

LORD MOYLAN
LORD VAIZEY OF DIDCOT

- 248** Page 235, line 5, at end insert “which may not include products containing more than 50% fruit, nuts and seeds in their composition, nor chocolate confectionery in portion sizes smaller than 200 kcal, as set out in Public Health England guidelines,”

Member's explanatory statement

This amendment allows the promotion of healthier bars made up of fruit, nuts, and seeds and takes into consideration the importance of portion size in helping consumers to make healthier choices.

LORD MOYLAN

- 248A** Page 235, line 5, at end insert “which may not include products containing more than 20% of their calorific value by way of protein and not more than 5 grams of sugar per 100 grams in their composition,”

LORD KAMALL

- 249** Page 235, line 18, at end insert –
“(4A) The Secretary of State may, before the date specified in subsection (1A), amend that subsection so as to substitute a later date for the date that is for the time being specified there.”

Member's explanatory statement

This amendment allows the Secretary of State to defer beyond 1 January 2023 the date when the watershed on television advertising of unhealthy food and drink begins to apply.

LORD CLEMENT-JONES
BARONESS WALMSLEY

- 249ZA** Page 235, line 21, leave out “(6)” and insert “(3)”

Member's explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are “less healthy” by regulations rather than leaving the definition to guidance.

249ZB Page 235, line 24, leave out “(5)” and insert “(3)(c)”

Member’s explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are “less healthy” by regulations rather than leaving the definition to guidance.

LORD MOYLAN
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD
LORD NASEBY

249A Page 235, line 26, at end insert –

- “(8) The Secretary of State must, by or on the implementation date, consult such persons as the Secretary of State deems appropriate and publish criteria by which the effectiveness of the restrictions contained in this section will be measured at the time of a review to be conducted by the Secretary of State five years after the implementation of the restrictions.
- (9) If the criteria so published are not met, this section expires at the end of the period of six months after the review.”

Member’s explanatory statement

This amendment and others to Schedule 17 in the name of Lord Moylan require the Government to define and consult on how they will measure the success of the advertising restrictions at combating childhood obesity well ahead of a five-year review period. They also impose a “sunset clause” should the measures not be deemed to have been effective at the end of a five-year review period.

LORD KAMALL

250 Page 235, line 30, leave out from beginning to “include” in line 31 and insert “From the beginning of 1 January 2023, on-demand programme services must not, between 5.30 am and 9.00 pm,”

Member’s explanatory statement

This amendment ensures that the watershed on advertising of unhealthy food and drink in on-demand programme services will not apply until 1 January 2023.

LORD VAIZEY OF DIDCOT
LORD CLEMENT-JONES
LORD GRADE OF YARMOUTH

250ZA Page 235, line 30, after “pm” insert “on Saturdays and Sundays”

LORD MOYLAN
LORD BLACK OF BRENTWOOD
LORD CLEMENT-JONES
LORD NASEBY

250A Page 235, line 36, at end insert –

- “(2A) A brand may continue to advertise, or provide sponsorship as a brand, if the advertisement or expression of sponsorship does not include an identifiable less healthy food and drink product.”

Member's explanatory statement

This amendment and the amendment at Schedule 17, page 237, line 7, in the name of Lord Moylan write the brand advertising exemption intended by the Government into the legislation, providing legal certainty to businesses.

LORD CLEMENT-JONES
BARONESS WALMSLEY

- 250B** Page 236, leave out lines 1 to 8 and insert –
“(c) a food or drink product is “less healthy” if it is prescribed as such by the Secretary of State in regulations;”

Member's explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are “less healthy” by regulations rather than leaving the definition to guidance.

LORD MOYLAN
LORD VAIZEY OF DIDCOT

- 251** Page 236, line 3, at end insert “which may not include products containing more than 50% fruit, nuts and seeds in their composition, nor chocolate confectionery in portion sizes smaller than 200 kcal, as set out in Public Health England guidelines,”

Member's explanatory statement

This amendment allows the promotion of healthier bars made up of fruit, nuts, and seeds and takes into consideration the importance of portion size in helping consumers to make healthier choices.

LORD KAMALL

- 252** Page 236, line 16, at end insert –
“(5A) The Secretary of State may, before the date specified in subsection (1), amend that subsection so as to substitute a later date for the date that is for the time being specified there.”

Member's explanatory statement

This amendment allows the Secretary of State to defer beyond 1 January 2023 the date when the watershed on advertising of unhealthy food and drink in on-demand programme services begins to apply.

LORD CLEMENT-JONES
BARONESS WALMSLEY

- 252ZA** Page 236, line 19, leave out “(6)” and insert “(4)”

Member's explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are “less healthy” by regulations rather than leaving the definition to guidance.

- 252ZB** Page 236, line 22, leave out “(6)” and insert “(4)(c)”

Member's explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are "less healthy" by regulations rather than leaving the definition to guidance.

LORD MOYLAN
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD
LORD NASEBY

252A Page 236, line 24, at end insert –

- “(9) The Secretary of State must, by or on the implementation date, consult such persons as the Secretary of State deems appropriate and publish criteria by which the effectiveness of the restrictions contained in this section will be measured at the time of a review to be conducted by the Secretary of State five years after the implementation of the restrictions.
- (10) If the criteria so published are not met, this section expires at the end of the period of six months after the review.”

Member's explanatory statement

This amendment and others to Schedule 17 in the name of Lord Moylan require the Government to define and consult on how they will measure the success of the advertising restrictions at combating childhood obesity well ahead of a five-year review period. They also impose a "sunset clause" should the measures not be deemed to have been effective at the end of a five-year review period.

LORD KAMALL

253 Page 236, line 32, at beginning insert “From the beginning of 1 January 2023,”

Member's explanatory statement

This amendment ensures that the prohibition on online advertising of unhealthy food and drink will not apply until 1 January 2023.

LORD VAIZEY OF DIDCOT
LORD CLEMENT-JONES
LORD GRADE OF YARMOUTH

253ZA Page 236, line 32, leave out “pay for” and insert “market, sell or arrange”

LORD MOYLAN
LORD BLACK OF BRENTWOOD
LORD CLEMENT-JONES
LORD NASEBY

253A Page 237, line 7, at end insert –

- “(3A) A brand may continue to advertise, or provide sponsorship as a brand, if the advertisement or expression of sponsorship does not include an identifiable less healthy food and drink product.”

Member's explanatory statement

This amendment and the amendment at Schedule 17, page 235, line 36 in the name of Lord Moylan write the brand advertising exemption intended by the Government into the legislation, providing legal certainty to businesses.

BARONESS BOYCOTT

253AA Page 237, line 9, at end insert –

“(4A) A video-sharing platform service or a social media platform service of a description specified in regulations made by the Secretary of State must not include advertisements of a kind prohibited under subsection (1).”

LORD CLEMENT-JONES

BARONESS WALMSLEY

253B Page 237, leave out lines 21 to 28 and insert –

“(e) a food or drink product is “less healthy” if it is prescribed as such by the Secretary of State in regulations;”

Member’s explanatory statement

This amendment and the other amendments to this Schedule in the name of Lord Clement-Jones would require the Secretary of State to prescribe which food and drink products are “less healthy” by regulations rather than leaving the definition to guidance.

LORD KAMALL

254 Page 237, line 38, at end insert –

“(6A) The Secretary of State may, before the date specified in subsection (1) –

(a) amend that subsection so as to substitute a later date for the date that is for the time being specified there, and

(b) make corresponding amendments to the references to that date in subsections (10) and (11).”

Member’s explanatory statement

This amendment allows the Secretary of State to defer beyond 1 January 2023 the date when the prohibition on online advertising of unhealthy food and drink begins to apply.

LORD CLEMENT-JONES

BARONESS WALMSLEY

254A Page 237, line 41, leave out “(7)” and insert “(5)”

Member’s explanatory statement

This amendment is consequential on the amendment to leave out lines 21 to 28 on page 237, also in the name of Lord Clement-Jones.

BARONESS THORNTON

254AA Page 237, line 43, at end insert –

“(8A) Before making regulations under subsection (4) or (7), the Secretary of State must obtain the consent of the devolved authorities.”

Member’s explanatory statement

The amendment ensures that any regulations can only be made after consultation and agreement with the devolved authorities.

254AB Page 237, line 44, after “under” insert “subsection (4) or”

Member's explanatory statement

The amendment ensures that any regulations under subsection (4) must be made according to the affirmative procedure in line with the recommendation of the Delegated Powers Committee.

254AC Page 237, line 44, after “under” insert “subsection (5)(e)(i) or”

Member's explanatory statement

The amendment ensures that any regulations that define “less healthy” can only be made through affirmative legislation. This is in line with recommendations from the Delegated Powers Committee.

LORD CLEMENT-JONES
BARONESS WALMSLEY

254B Page 237, line 44, leave out “(7)” and insert “(5)(e)”

Member's explanatory statement

This amendment is consequential on the amendment to leave out lines 21 to 28 on page 237, also in the name of Lord Clement-Jones.

LORD VAIZEY OF DIDCOT
LORD MOYLAN
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

255 Page 238, line 1, leave out from “before” to “, and” on line 3 and insert “the day section 144 of, and Schedule 17 to, the Health and Care Act 2022 come into force, the person made a payment for advertisements to be placed on the internet on or after the day section 144 of, and Schedule 17 to, that Act come into force”

Member's explanatory statement

This amendment and other amendments to Schedule 17 in the name of Lord Vaizey of Didcot extend the implementation period in consideration of the fact that advertising campaigns can take up to a year or more from initial conception through to production, media planning and media buying and publication/broadcast.

LORD VAIZEY OF DIDCOT
LORD CLEMENT-JONES
LORD GRADE OF YARMOUTH

255A Page 238, line 2, leave out “made a payment for” and insert “marketed, sold or arranged”

LORD VAIZEY OF DIDCOT
LORD GRADE OF YARMOUTH

255B Page 238, line 4, leave out “made” and insert “received”

Schedule 17 - continued

LORD VAIZEY OF DIDCOT
LORD MOYLAN
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

- 256 Page 238, line 4, leave out “1 January 2023” and insert “the day section 144 of, and Schedule 17 to, the Health and Care Act 2022 come into force”

Member’s explanatory statement

This amendment and other amendments to Schedule 17 in the name of Lord Vaizey of Didcot extend the implementation period in consideration of the fact that advertising campaigns can take up to a year or more from initial conception through to production, media planning and media buying and publication/broadcast.

- 257 Page 238, line 9, leave out “1 January 2023” and insert “the day section 144 of, and Schedule 17 to, the Health and Care Act 2022 come into force”

Member’s explanatory statement

This amendment and other amendments to Schedule 17 in the name of Lord Vaizey of Didcot extend the implementation period in consideration of the fact that advertising campaigns can take up to a year or more from initial conception through to production, media planning and media buying and publication/broadcast.

LORD MOYLAN
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD
LORD NASEBY

- 257A Page 238, line 11, at end insert –
- “(12) The Secretary of State must, by or on the implementation date, consult such persons as the Secretary of State deems appropriate and publish criteria by which the effectiveness of the restrictions contained in this Part will be measured at the time of a review to be conducted by the Secretary of State five years after the implementation of the restrictions.
- (13) If the criteria so published are not met, this Part expires at the end of the period of six months after the review.”

Member’s explanatory statement

This amendment and others to Schedule 17 in the name of Lord Moylan require the Government to define and consult on how they will measure the success of the advertising restrictions at combating childhood obesity well ahead of a five-year review period. They also impose a “sunset clause” should the measures not be deemed to have been effective at the end of a five-year review period.

LORD VAIZEY OF DIDCOT
LORD CLEMENT-JONES
LORD GRADE OF YARMOUTH

- 257B Page 239, leave out line 24 and insert “person marketing, selling or arranging advertisements published on the internet;”

Schedule 17 - continued

LORD HOPE OF CRAIGHEAD

257C Page 243, line 11, at end insert –

- “(4A) Regulations under subsection (1) which repeal, revoke or amend provision made by or under –
- (a) an Act of the Scottish Parliament,
 - (b) a Measure or Act of Senedd Cymru, or
 - (c) Northern Ireland legislation,
- may be made only with the consent of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly as the case may be.”

Clause 145

LORD HUNT OF KINGS HEATH

BARONESS THORNTON

BARONESS BARKER

258 Page 124, line 12, at end insert –

- “(c) require a minimum protected patient day funded food cost updated on an annual basis;
- (d) require mandatory training for catering staff employed in the NHS or on contract with the NHS for the purposes of implementing the standards set out in the regulations made under this section;
- (e) require mandatory training regarding the need to ensure that patients receive food and drink that takes full account of religious and dietary requirements;
- (f) require NHS England to ensure that a programme is established to ensure that necessary improvements are made to NHS kitchens and catering equipment for the purposes of implementing the standards set out in regulations made under this section.”

Clause 146

BARONESS FINLAY OF LLANDAFF

LORD SHIPLEY

259 Page 124, line 42, at end insert –

- “(3) The Secretary of State must, no later than one year after this Act is passed –
- (a) publish a report on alcohol labelling, considering the question of whether to require the following on alcohol product labels –
 - (i) the Chief Medical Officers’ low risk drinking guidelines,
 - (ii) a warning that is intended to inform the public of the danger of alcohol consumption,
 - (iii) a warning that is intended to inform the public of the danger of alcohol consumption when pregnant,
 - (iv) a warning that is intended to inform the public of the direct link between alcohol and cancer, and

Clause 146 - continued

- (v) a full list of ingredients and nutritional information; and
 - (b) lay the report before Parliament.
- (4) 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 prepared under subsection (3).”

Member’s explanatory statement

This probing amendment requires the Secretary of State to report on the alcohol labelling consultation.

After Clause 146

BARONESS WALMSLEY

259A Insert the following new Clause—

“Consultation on measures to reformulate unhealthy food and drink products

Within one year of the day on which this Act is passed, the Secretary of State must—

- (a) consult on the merits of further measures to incentivise the industry to reformulate unhealthy food and drink products to reduce the content of sugar, salt and calories, in light of the findings from the implementation of the Soft Drinks Industry Levy and international approaches to mandatory reformulation of food and drink products; and
- (b) publish a report on the consultation and lay it before both Houses of Parliament.”

Member’s explanatory statement

This amendment would require the Secretary of State to consult on the merits of further measures to incentivise the reformulation of unhealthy food and drink products, and lay a report on the consultation before Parliament.

Clause 147

LORD REAY

259B Page 125, line 7, leave out paragraph (a) and insert—

- “(a) for subsection (3A) substitute—
- “(3A) The Secretary of State must conduct an Environmental Impact Assessment on the fluoridation of water supplies before making a request under subsection (1) for the first time after section 147 of the Health and Care Act 2022 comes into force.””

Member’s explanatory statement

This amendment is intended to require the Secretary of State to conduct an environmental impact assessment before making a request to require the fluoridation of water supplies.

259C Page 125, line 7, leave out paragraph (a) and insert—

- “(a) for subsection (3A) substitute—

Clause 147 - continued

- “(3A) The Secretary of State must conduct a toxicological review of the fluoridation of water supplies as set out in subsection (3B) before making a request under subsection (1) for the first time after section 147 of the Health and Care Act 2022 comes into force.
- (3B) The review must consider recent peer-reviewed studies, in particular—
- (a) Bashash M, et al., ‘Prenatal Fluoride Exposure and Cognitive Outcomes in Children at 4 and 6–12 Years of Age in Mexico’, *Environmental Health Perspectives*, 2017, Volume 125, Number 9,
 - (b) Green R, Lanphear B, Hornung R, et al., ‘Association Between Maternal Fluoride Exposure During Pregnancy and IQ Scores in Offspring in Canada’, *JAMA Pediatrics*, 2019, 173(10):940-948,
 - (c) Till, et al., ‘Fluoride exposure from infant formula and child IQ in a Canadian birth cohort’, *Environment International*, 2020, Volume 134, 105315, and
 - (d) Bashash M, et al., ‘Prenatal fluoride exposure and attention deficit hyperactivity disorder (ADHD) symptoms in children at 6–12 years of age in Mexico City’, *Environment International*, 2018, Volume 121, Part 1.””

Member’s explanatory statement

This amendment is intended to require the Secretary of State to conduct a toxicological review of certain US-Government funded, peer-reviewed scientific studies, before making a request to require the fluoridation of water supplies.

LORD HUNT OF KINGS HEATH
 BARONESS GARDNER OF PARKES
 BARONESS THORNTON
 BARONESS JONES OF MOULSECOOMB

260 Page 125, leave out lines 13 to 20 and insert—

- “(6A) The Secretary of State may by regulations conduct a national consultation on the desirability of introducing water fluoridation schemes generally in England.
- (6B) Where such a national consultation has taken place, no local consultation shall be undertaken.”;

Member’s explanatory statement

This amendment would ensure that a national consultation on future water fluoridation schemes would be undertaken obviating the need for local consultation.

LORD HUNT OF KINGS HEATH
 BARONESS GARDNER OF PARKES

261 Page 125, leave out lines 17 to 20

Member's explanatory statement

This amendment would remove the ability of the Secretary of State to pass the cost of water fluoridation onto another public body.

BARONESS MCINTOSH OF PICKERING
BARONESS JONES OF MOULSECOOMB
LORD REAY

The above-named Lords give notice of their intention to oppose the Question that Clause 147 stand part of the Bill.

After Clause 147

LORD HUNT OF KINGS HEATH
BARONESS GARDNER OF PARKES
BARONESS THORNTON
BARONESS JONES OF MOULSECOOMB

262 Insert the following new Clause—

“Fluoridation of water supplies: report

- (1) Within 12 months of this Act being passed, the Secretary of State must lay before Parliament a report setting out a programme for the fluoridation of water supplies in England with a timetable for each proposed scheme.
- (2) The Secretary of State must lay before Parliament a report 3 years after the passing of this Act, and each subsequent three years setting out which areas of England have had their water supplies fluoridated and the programme for the next three years for implementing new water fluoridation schemes.”

Member's explanatory statement

This amendment is to ensure that a programme for implementing water fluoridation schemes is established within 12 months of the Act being passed and to ensure that regular progress reports are made to Parliament on progress made in implementing new water fluoridation schemes.

Clause 148

BARONESS MCINTOSH OF PICKERING
BARONESS JONES OF MOULSECOOMB
LORD REAY

The above-named Lords give notice of their intention to oppose the Question that Clause 148 stand part of the Bill.

After Clause 148

BARONESS MCINTOSH OF PICKERING
BARONESS TYLER OF ENFIELD

263 Insert the following new Clause—

“Annual parity of esteem report: spending on mental health and mental illness

Within six weeks of the end of each financial year, the Secretary of State must lay before each House of Parliament a report on the ways in which the allotment made to NHS England for that financial year contributed to the promotion in England of a comprehensive health service designed to secure improvement—

- (a) in the mental health of the people of England, and
- (b) in the prevention, diagnosis and treatment of mental illness.”

Member’s explanatory statement

This new clause would require the Secretary of State for Health and Social Care to make an annual statement on how the funding received by mental health services that year from the overall annual allotment has contributed to the improvement of mental health and the prevention, diagnosis and treatment of mental illness.

LORD HUNT OF KINGS HEATH
LORD PATEL
LORD KAKKAR
BARONESS BRINTON

264 Insert the following new Clause—

“Review of the surgical consultant appointment process

- (1) The National Health Service (Appointment of Consultants) Regulations 1996 (S.I. 1996/701) are amended as follows.
- (2) In paragraph (1) of regulation 2 (interpretation), in the entry for ““relevant college” in relation to a proposed appointment, means whichever one of the following bodies” amend sub-paragraph (c) to “the Royal College of Physicians of London, the Royal College of Physicians of Edinburgh and the Royal College of Physicians and Surgeons of Glasgow”.
- (3) In paragraph (1) of regulation 2, in the entry for ““relevant college” in relation to a proposed appointment, means whichever one of the following bodies” amend sub-paragraph (d) to “the Royal College of Surgeons of England, the Royal College of Surgeons of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow and each of their associated Dental Faculties”.
- (4) In paragraph (1) of regulation 2, in the entry for ““relevant college” in relation to a proposed appointment, means whichever one of the following bodies” amend sub-paragraph (d) to remove “the Inter Collegiate Faculty of Accident and Emergency Medicine”.
- (5) In paragraph (1) of regulation 2, in the entry for ““relevant college” in relation to a proposed appointment, means whichever one of the following bodies” insert a new sub-paragraph (i) “the Royal College of Emergency Medicine”.”

Member's explanatory statement

The new Clause would add the Royal College of Surgeons of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow and each of their associated dental faculties and the Royal College of Emergency Medicine to the medical Royal Colleges who may be involved in the appointment of NHS surgical and dental consultants. It would also add the Royal College of Physicians of Edinburgh and the Royal College of Physicians and Surgeons of Glasgow to the colleges who may be involved in the appointment of NHS consultants physicians and includes specific reference to the Royal College of Emergency Medicine as the 1996 Regulations and subsequent 2005 Guidance pre-date their establishment as a separate medical Royal College.

LORD HUNT OF KINGS HEATH
 BARONESS NORTHOVER
 LORD RIBEIRO
 LORD ALTON OF LIVERPOOL

265 Insert the following new Clause—

“Regulation of the public display of imported cadavers

- (1) The Human Tissue Act 2004 is amended as follows.
- (2) In subsections (5)(a), (6)(a) and (6)(b) of section 1 (authorisation of activities for scheduled purposes) after “imported”, in each place it occurs, insert “other than for the purpose of public display”.

Member's explanatory statement

This amendment would ensure that imported bodies for display would need the same consent requirements as bodies sourced from within the UK.

BARONESS MERRON
 BARONESS FINLAY OF LLANDAFF
 BARONESS BRINTON
 LORD LANSLEY

266 Insert the following new Clause—

“Licensing of aesthetic non-surgical cosmetic procedures

- (1) No person may carry on an activity to which this subsection applies—
 - (a) except under the authority of a licence for the purposes of this section, and
 - (b) other than in accordance with specified training.
- (2) Subsection (1) applies to an activity relating to the provision of aesthetic non-surgical procedures which is specified for the purposes of that subsection by regulations made by the Secretary of State.
- (3) A person commits an offence if that person contravenes subsection (1).
- (4) The Secretary of State may by regulations make provision about licences and conditions for the purposes of this section.
- (5) Before making regulations under this section, the Secretary of State must consult the representatives of any interests concerned which the Secretary of State considers appropriate.
- (6) Regulations may, in particular—
 - (a) require a licensing authority not to grant a licence unless satisfied as to a matter specified in the regulations, and

After Clause 148 - continued

- (b) require a licensing authority to have regard, in deciding whether to grant a licence, to a matter specified in the regulations.”

Member’s explanatory statement

This new Clause gives the Secretary of State the power to introduce a licensing regime for aesthetic non-surgical cosmetic procedures and makes it an offence for someone to practise without a licence. The list of treatments, detailed conditions and training requirements would be set out in regulations after consultation with relevant stakeholders.

LORD HUNT OF KINGS HEATH
BARONESS THORNTON

267 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.

LORD HUNT OF KINGS HEATH
LORD MACKAY OF CLASHFERN
LORD PATEL
BARONESS HODGSON OF ABINGER

268 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
BARONESS WALMSLEY
BARONESS PITKEATHLEY
BARONESS MERRON

269 Insert the following new Clause—

“Young carers’ needs assessment: discharge from hospitals

In the Children Act 1989, after section 17ZA insert—

*After Clause 148 - continued***“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
BARONESS NORTHOVER
BARONESS FINLAY OF LLANDAFF

270 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 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.

LORD FAULKNER OF WORCESTER
LORD YOUNG OF COOKHAM
LORD RENNARD
BARONESS FINLAY OF LLANDAFF

271 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
LORD RENNARD
LORD FAULKNER OF WORCESTER
LORD CRISP

272

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

After Clause 148 - continued

- (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.

273

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.”

274

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.

After Clause 148 - continued

- (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.
- (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.

After Clause 148 - continued

- (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).”

LORD YOUNG OF COOKHAM
LORD FAULKNER OF WORCESTER
LORD RENNARD
LORD CRISP

275 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.
- (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 sections (*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
LORD YOUNG OF COOKHAM
LORD FAULKNER OF WORCESTER
BARONESS MASHAM OF ILTON

276 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.

277 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.

LORD RENNARD
LORD YOUNG OF COOKHAM
LORD FAULKNER OF WORCESTER
BARONESS FINLAY OF LLANDAFF

278 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.

BARONESS FINLAY OF LLANDAFF
LORD YOUNG OF COOKHAM
LORD RENNARD
LORD FAULKNER OF WORCESTER

279 Insert the following new Clause—

“Packaging and labelling of nicotine products

- (1) The Secretary of State must, no later than six months after this Act is passed, consult on the retail packaging and labelling of electronic cigarettes and other novel nicotine products, including requirements for health warnings and prohibition of branding elements attractive to children, and publish a report on the consultation.

After Clause 148 - continued

- (2) 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 would give powers to the Secretary of State to prohibit branding on e-cigarette packaging which is appealing to children.

BARONESS DEECH
BARONESS BARKER

280 Insert the following new Clause—

“Extension of statutory storage period: embryos and gametes

In section 14 of the Human Fertilisation and Embryology Act 1990, omit subsections (3) to (4A) and insert—

- “(3) The maximum storage period for an embryo or a gamete is—
- (a) 10 years from the date that the embryo or gamete in question was first placed in storage; or
 - (b) 12 years from the date that the embryo or gamete in question was first placed in storage, provided that the embryo or gamete in question was, on 1 July 2020, being stored, for the provision of treatment services, on premises to which a licence under paragraph 1 or 2 of Schedule 2 to this Act relates; or
 - (c) 10 years from the date of the most recent written consent to storage given by the relevant persons in relation to the embryo in question.
- (4) Where the maximum storage period calculated in accordance with subsection (3) would be greater than 55 years, the maximum storage period for the purpose of that subsection is 55 years.
- (4A) The Secretary of State may make regulations in relation to subsections (3) and (4).”

BARONESS MERRON
BARONESS BENNETT OF MANOR CASTLE

281 Insert the following new Clause—

“UK Health Security Agency

- (1) There is to be a body corporate known as the UK Health Security Agency.
- (2) The UK Health Security Agency has the function of—
 - (a) acting as the country’s permanent standing capacity to prepare for, prevent and respond to threats to health;
 - (b) advising the Secretary of State and such bodies as may be prescribed about arrangements for preparing, preventing and responding to threats to health;
 - (c) planning for, preventing and responding to the risk of future infectious disease pandemics and other major health threats;

After Clause 148 - continued

- (d) working with partners around the world, and lead the UK's global contribution to global health protection research;
 - (e) holding responsibility for health security scientific capabilities including those at Porton Down and Colindale;
 - (f) other duties set out by regulations.
- (3) The Secretary of State may by regulations provide for –
- (a) the establishment and constitution of the board of the Agency;
 - (b) the financing of the Agency;
 - (c) duties of the Agency.
- (4) The Agency must prepare and submit an annual report of its activities to Parliament.”

Member's explanatory statement

The amendment is intended to place the successor to Public Health England on a statutory basis to enhance transparency and accountability.

LORD HUNT OF KINGS HEATH
LORD ALTON OF LIVERPOOL
BARONESS NORTHOVER
LORD RIBEIRO

282

Insert the following new Clause –

“Appropriate consent to transplantation activities when travelling abroad

- (1) Section 32 of the Human Tissue Act 2004 (prohibition of commercial dealings in human material for transplantation) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1), after paragraph (e) insert –
- “(f) travels outside the United Kingdom to a country or part of a country where explicit consent is not required for the legal donation of controlled material which does not meet the criteria in subsection (1A)(a) to (c) and receives any controlled material, for the purpose of transplantation, without –
 - (i) the free, informed and specific consent of a living donor, or
 - (ii) the free, informed and specific consent of the donor's next of kin, where the donor is unable to provide consent;
 - (g) travels outside the United Kingdom to a country or part of a country where explicit consent is required for the legal donation of controlled material and receives any controlled material for the purpose of transplantation where the material was obtained without –
 - (i) the free, informed and specific consent of a living donor, or
 - (ii) the free, informed and specific consent of the donor's next of kin, where the donor is unable to provide consent;

After Clause 148 - continued

- (h) travels outside the United Kingdom to a country or part of a country and receives any controlled material for the purpose of transplantation for which, in exchange for the removal of controlled material –
 - (i) the living donor, or a third party, receives a financial gain or comparable advantage, or
 - (ii) where the controlled material comes from a deceased donor, a third party receives financial gain or comparable advantage.”
- (3) After subsection (1) insert –
 - “(1A) The Secretary of State must publish an annual assessment of countries where, explicit consent is not required for the legal donation of controlled material, determining whether each of those countries –
 - (a) provides a formal, publicly funded scheme for opting out of deemed consent for donation of controlled material,
 - (b) provides an effective programme of public education to its population on the deemed consent system and the opt-out scheme which delivers a high level of public understanding of both, and
 - (c) is not considered to be committing Genocide by resolution of the House of Commons.
 - (1B) In paragraph (h) in subsection (1), the expression “financial gain or comparable advantage” does not include compensation for loss of earnings and any other justifiable expenses caused by the removal or by the related medical examinations, or compensation in case of damage which is not inherent to the removal of controlled material.
 - (1C) Subsection (1E) applies if –
 - (a) an act which forms part of an offence under subsection (1) takes place outside the United Kingdom, but
 - (b) the person committing the act has a close connection with the United Kingdom.
 - (1D) For the purposes of subsection (1C)(b), a person has a close connection with the United Kingdom if, and only if, the person was one of the following at the time the acts or omissions concerned were done or made –
 - (a) a British citizen;
 - (b) a British overseas territories citizen;
 - (c) a British National (Overseas);
 - (d) a British Overseas citizen;
 - (e) a person who under the British Nationality Act 1981 was a British subject;
 - (f) a British protected person within the meaning of that Act;
 - (g) an individual ordinarily resident in the United Kingdom;
 - (h) a body incorporated under the law of any part of the United Kingdom;
 - (i) a Scottish partnership.
 - (1E) Where this subsection applies, proceedings for the offence may be taken in any criminal court in England and Wales or Northern Ireland.”

After Clause 148 - continued

- (4) In subsection (3), after “subsection (1)” insert “(a) to (e)”.
- (5) In subsection (4), after “subsection (1)” insert “(a) to (e)”.
- (6) After subsection (4) insert—
 “(4A) A person guilty of an offence under subsection (1)(f) to (h) shall be liable—
 (a) on summary conviction—
 (i) to imprisonment for a term not exceeding 12 months,
 (ii) to a fine not exceeding the statutory maximum, or
 (iii) to both;
 (b) on conviction on indictment—
 (i) to imprisonment for a term not exceeding 9 years,
 (ii) to a fine, or
 (iii) to both.”
- (7) In section 34 of the Human Tissue Act 2004 (information about transplant operations), after subsection (2) insert—
 “(2A) Regulations under subsection (1) must require specified persons to—
 (a) keep patient identifiable records for all instances of UK citizens who have received transplant procedures performed outside the United Kingdom; and
 (b) report instances of transplant procedures performed on UK citizens outside the United Kingdom to NHS Blood and Transplant.
 (2B) Regulations under subsection (1) must require NHS Blood and Transplant to produce an annual report on instances of UK citizens receiving transplant procedures outside the United Kingdom.”

Member’s explanatory statement

The Amendment is aimed at ensuring that in relation to organ tourism, there must be informed consent with no coercion or financial gain for the donation of organs. Thus prohibiting organ tourism which involves either forced organ harvesting or black market organ trafficking.

BARONESS CUMBERLEGE
 BARONESS FINLAY OF LLANDAFF

283

Insert the following new Clause—

“GMC register: interests

In section 2 of the Medical Act 1982, after subsection (4) insert—

- “(5) The register shall include a list of financial and non-pecuniary interests for medical practitioners, as well as their clinical interests and their recognised and accredited specialisms.”

Member’s explanatory statement

This amendment requires the General Medical Council to include the financial and non-pecuniary interests of medical practitioners on its register.

284 Insert the following new Clause—

“Industry reporting

Companies involved in the production, buying or selling of pharmaceutical products or medical devices must publish any payments made to—

- (a) teaching hospitals,
- (b) research institutions, or
- (c) individual clinicians.”

Member’s explanatory statement

This amendment requires companies involved in the production, buying or selling of pharmaceutical products or medical devices to publish any payments made to teaching hospitals, research institutions, or individual clinicians.

LORD WARNER

LORD HUNT OF KINGS HEATH

285 Insert the following new Clause—

“Office of Health and Care Sustainability

- (1) There is to be a body corporate, independent of the Government, called the Office of Health and Care Sustainability (“the Office”) to safeguard the long-term sustainability of an integrated health and adult social care system for England.
- (2) The Office must be established within six months of the passing of this Act and must publish a report of its initial findings relating to its main functions within a year of its establishment.
- (3) The role of the Office is to continually assess the outlook for the health and care system over the coming five, 10 and 15 years.
- (4) The Office has no function in operational or service delivery aspects of the health and care system.
- (5) The Office must—
 - (a) monitor and publish data relating to demographic trends, disease profiles and the likely pace of change relating to future service demands,
 - (b) assess the workforce and skills mix required to respond to those changes and publish regular reports on those matters, and
 - (c) consider the stability of health and adult social care funding relative to changing demographic and disease trends, including the alignment between health and adult social care funding, and publish regular reports.
- (6) The functions of the Office are to be exercised on behalf of the Crown as if it was a public department.
- (7) The Office is to consist of—
 - (a) an executive chair appointed by the Secretary of State with the consent of the Public Accounts and Health Select Committees of the House of Commons,

After Clause 148 - continued

- (b) two other members appointed by the Secretary of State with the consent of the Public Accounts and Health Select Committees of the House of Commons, and
 - (c) two other members nominated by the Office and appointed by the Secretary of State.
- (8) The initial appointments under subsection (7) are for a term of five years and no more than two terms may be served.
- (9) The remuneration of the executive chair is to be agreed by the Secretary of State but may not be less than that paid to the Permanent Secretary of the Department of Health and Social Care; and all other salaries and gratuities for members may be agreed by the Office with the consent of the Secretary of State for Health and Social Care.
- (10) The Office may employ staff on terms and remuneration consistent with that of the civil service.
- (11) The Office may –
- (a) establish such Committees and sub-Committees as it deems necessary,
 - (b) determine its own procedures and those of its Committees and sub-Committees, and
 - (c) do anything calculated to facilitate, or conducive or incidental to, the carrying out of any of its functions.
- (12) The annual budget of the Office is to be provided by the Secretary of State after consultation with the Public Accounts Committee of the House of Commons.
- (13) The Office must keep proper accounts and records in relation to its accounts, and must prepare and publish each year an audited statement of accounts.
- (14) The Office must prepare an initial report on its work within one year of its establishment, and thereafter annually, and may at any time publish a report on its functions when it considers that this assists safeguarding the long-term sustainability of an integrated health and adult social care system in England.
- (15) The Secretary of State must lay any report prepared by the Office before both Houses of Parliament.”

Member’s explanatory statement

This amendment implements recommendations 33 and 34 of the 2017 report by the House of Lords Select Committee on the Long-term Sustainability of the NHS and Adult Social Care. It draws on the legislation setting up the Office for Budget Responsibility.

LORD KAKKAR
LORD PATEL

286

Insert the following new Clause –

“Office of Health and Care Sustainability

- (1) There is to be a body corporate, independent of the Government, called the Office of Health and Care Sustainability (“the Office”) to safeguard the long-term sustainability of an integrated health and adult social care system for England.

After Clause 148 - continued

- (2) The role of the Office is to continually assess the outlook for the health and care system over the period of 20 years beginning with the day on which this Act is passed.
- (3) The Office has no function in operational or service delivery aspects of the health and care system.
- (4) The Office must—
 - (a) monitor and publish data relating to demographic trends, disease profiles and the likely pace of change relating to future service demands,
 - (b) assess the workforce and skills mix required to respond to those changes and publish regular reports on those matters, and
 - (c) consider the stability of health and adult social care funding relative to changing demographic and disease trends, including the alignment between health and adult social care funding, and publish regular reports.”

BARONESS FINLAY OF LLANDAFF
 BARONESS HOLLINS
 LORD MOYLAN

287

Insert the following new Clause—

“Dispute resolution in children’s palliative care

- (1) This section applies where there is a difference of opinion between a parent of a child with a life-limiting illness and a doctor responsible for the child’s treatment about—
 - (a) the nature (or extent) of specialist palliative care that should be made available for the child, or
 - (b) the extent to which palliative care provided to the child should be accompanied by one or more disease-modifying treatments.
- (2) Where the authorities responsible for a health service hospital become aware of the difference of opinion they must take all reasonable steps—
 - (a) to ensure that the views of the parent, and of anyone else concerned with the welfare of the child, are listened to and taken into account;
 - (b) to make available to the parent any medical data relating to the child reasonably required to obtain evidence in support of the parent’s proposals for the child’s treatment (including obtaining an additional medical opinion); and
 - (c) where the authorities consider that the difference of opinion is unlikely to be resolved entirely informally, to provide for a mediation process, acceptable to both parties, between the parent and the doctor.
- (3) In the application of subsection (2) the hospital authorities—
 - (a) must involve the child’s specialist palliative care team so far as possible; and
 - (b) may refuse to make medical data available if the High Court grants an application to that effect on the grounds that disclosure might put the child’s safety at risk having regard to special circumstances.

After Clause 148 - continued

- (4) Where the difference of opinion between the parent and the doctor arises in proceedings before a court—
- (a) the child’s parents are entitled to legal aid, within the meaning of section 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Lord Chancellor’s functions) in respect of the proceedings; and the Lord Chancellor must make any necessary regulations under that Act to give effect to this paragraph; and
 - (b) the court may not make any order that would prevent or obstruct the parent from pursuing proposals for obtaining disease-modifying treatment for the child (whether in the UK or elsewhere) unless the court is satisfied that the proposals—
 - (i) involve a medical institution that is not generally regarded within the medical community as a responsible and reliable institution, or
 - (ii) pose a disproportionate risk of significant harm to the child.
- (5) Nothing in subsection (4) requires, or may be relied upon so as to require, the provision of any specific treatment by a doctor or institution; in particular, nothing in subsection (4) —
- (a) requires the provision of resources for any particular course of treatment; or
 - (b) requires a doctor to provide treatment that the doctor considers likely to be futile or harmful, or otherwise not in the best interests of the child.
- (6) In this section—
- “child” means an individual under the age of 18;
- “health service hospital” has the meaning given by section 275 of the National Health Service Act 2006 (interpretation);
- “parent” means a person with parental responsibility for a child within the meaning of the Children Act 1989.
- (7) Nothing in this section affects the law about the appropriate clinical practice to be followed as to—
- (a) having regard to the child’s own views, where they can be expressed; and
 - (b) having regard to the views of anyone interested in the welfare of the child, whether or not a person concerned within the welfare of the child within the meaning of this section.”

BARONESS CUMBERLEGE
LORD HUNT OF KINGS HEATH
BARONESS RITCHIE OF DOWNPATRICK

288

Insert the following new Clause—

“Schemes for those affected by treatment

- (1) Within 6 months of the passing of this Act, the Secretary of State must bring forward proposals to establish separate schemes to meet the cost of providing additional care and support to those who have experienced avoidable harm and are eligible to claim in respect of—

After Clause 148 - continued

- (a) hormone pregnancy tests (HPTs),
 - (b) sodium valproate, or
 - (c) pelvic mesh.
- (2) The Secretary of State may by regulations provide for the establishment and administration of the schemes.”

Member’s explanatory statement

The amendment would mandate the Secretary of State to establish schemes to meet the cost of providing additional care and support to those who have experienced avoidable harm and are eligible to claim in respect of hormone pregnancy tests (HPTs), sodium valproate and pelvic mesh as identified in ‘First do no Harm’, the report of the Independent Medicines and Medical Devices Safety Review.

BARONESS GREENGROSS
 BARONESS WATKINS OF TAVISTOCK
 BARONESS FINLAY OF LLANDAFF
 BARONESS BENNETT OF MANOR CASTLE

289 Insert the following new Clause –

“Hospital rehabilitation accommodation

- (1) The Secretary of State must ensure that each hospital has sufficient accommodation to allow a bed for any patient who is rehabilitating and no longer needs to be in hospital but cannot be discharged back to their own home.
- (2) As part of the duty under subsection (1), the Secretary of State must ensure hospitals use any spare land owned by the NHS to build any new accommodation required.”

Member’s explanatory statement

This accommodation would be available to people who are rehabilitating and no longer need to be in a hospital ward, but cannot yet return to their own home. This proposal is intended to save the NHS money through reducing hospital stays whilst providing more suitable accommodation for people rehabilitating.

BARONESS GREENGROSS
 BARONESS BENNETT OF MANOR CASTLE

290 Insert the following new Clause –

“Social prescribing

The Secretary of State must seek to ensure that health professionals are aware of any benefits of practising social prescribing of music and the arts for dementia, in particular for patients at the onset of symptoms so as to preserve their brain health and resilience in the community.”

BARONESS GREENGROSS

291 Insert the following new Clause –

“Dementia care plan

- (1) The Secretary of State must prepare and publish a plan for dementia care.

After Clause 148 - continued

- (2) The plan must recognise the different types of dementia and the specific care needs of each type.
- (3) It is the duty of each local authority and NHS integrated care system to implement the plan for their own areas.”

BARONESS CHAKRABARTI
BARONESS LAWRENCE OF CLARENDON
LORD BOATENG
BARONESS BENNETT OF MANOR CASTLE

292

Insert the following new Clause –

“Public health condition for investment in research into vaccines and other health technologies

- (1) Any relevant research or development funded or part-funded by public finances is subject to the public health condition.
- (2) The Secretary of State, UK Research and Innovation, the National Institute for Health and Care Excellence, the Intellectual Property Office and all public authorities must ensure that the public health condition is fulfilled in respect of such research or development and any material benefit derived from it.
- (3) The public health condition is that –
 - (a) a proportionate share of any intellectual property resulting from the public funding (including intellectual property in all research, pre-clinical and clinical data, safety and efficacy information and manufacturing capability) is subject to Crown ownership and openly licensed,
 - (b) a proportionate share of any private profit resulting from the public funding is re-invested in further public health-related research, and
 - (c) any proportion of public funding is published and taken into account in relation to the setting of reasonable prices for the public procurement of medicines domestically and internationally.
- (4) In addition, the Secretary of State must utilise, and actively support other countries to utilise, the full range of flexibilities within the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) for the purposes of public health.
- (5) In the event of the World Health Organization declaring a pandemic, the Secretary of State must immediately –
 - (a) waive UK-registered patents, industrial designs, other intellectual property rights, and protections relating to undisclosed information relating to –
 - (i) vaccines,
 - (ii) medicines,
 - (iii) diagnostics and their associated technologies, and
 - (iv) materials,
 necessary for combatting a pandemic internationally,
 - (b) issue relevant emergency compulsory directions to enable the domestic manufacturing of generic and biosimilar products, and

After Clause 148 - continued

- (c) support and implement any proposal to temporarily waive elements of the TRIPS Agreement at the World Trade Organization to assist wider global manufacturing of and access to health technologies.”

Member’s explanatory statement

This new Clause ensures public benefits in exchange for public financing of research and development. It would require the Secretary of State to support public health flexibilities under the TRIPS Agreement and, in the event of a pandemic, domestic and international knowledge-sharing to combat the emergency.

LORD LANSLEY

BARONESS BENNETT OF MANOR CASTLE

293

Insert the following new Clause—

“Register of cosmetic surgery practitioners

- (1) The Medical Act 1983 is amended as follows.
- (2) In section 34 (publication of the registers), in subsection (2)(ba)—
 - (a) omit the “and” at the end of sub-paragraph (ii);
 - (b) after sub-paragraph (ii) insert—
 - “(iii) whether he or she is eligible to be admitted to the Specialist Register in accordance with the scheme set out in section 34DA of this Act; and”.
- (3) After section 34D, insert—

“34DA Scheme for registering cosmetic surgery practitioners

- (1) Within twelve months of the day on which the Health and Care Act 2022 is passed, the General Council must create a scheme through which a medical practitioner who possesses professional qualifications, certificates or credentials relating to cosmetic surgery or cosmetic procedures is required to be identified as such on the Specialist Register, even if he or she practises outside the National Health Service, unless excluded under subsection (3).
- (2) In creating this scheme, the General Council must set out the criteria which will be considered in determining whether to include a person as qualified to provide cosmetic surgery or cosmetic procedures in the Specialist Register, having regard to the recommendations made by the Cosmetic Surgery Interspecialty Committee of the Royal College of Surgeons.
- (3) The criteria in subsection (2) must ensure that any person whose name has been removed from the Specialist Register under regulations made by virtue of section 29B (grant, refusal and withdrawal of licence) of this Act is excluded from the Specialist Register.””

After Clause 148 - continued

LORD MOYLAN
LORD ABERDARE
LORD PATEL
LORD VAIZEY OF DIDCOT

294 Insert the following new Clause—

“Treatment of pancreatic cancer patients

- (1) The Secretary of State must, within three months of this Act being passed, lay before each House of Parliament a report on the interim findings of the audit of pancreatic cancer services commissioned by NHS England and NHS Improvement, including recommendations arising from those interim findings for urgent implementation in the treatment of pancreatic cancer patients.
- (2) Every six months thereafter until the audit referred to in subsection (1) is completed, the Secretary of State must lay before each House of Parliament an updated report on its interim findings and recommendations; and when the audit is completed, the Secretary of State must lay before each House of Parliament a report on its final findings and recommendations.
- (3) The Secretary of State must, within three months of this Act being passed, publish national guidance making the appropriate prescription of Pancreatic Enzyme Replacement Therapy a priority within pancreatic cancer care in the NHS through the implementation of national targets.
- (4) The Secretary of State must, within a year of this Act being passed and every year thereafter, publish data on the prescription of Pancreatic Enzyme Replacement Therapy for pancreatic cancer patients.”

BARONESS WALMSLEY

295 Insert the following new Clause—

“Ambulance response times: local reporting

- (1) The Secretary of State must, not later than 31 July 2022, make regulations which require ambulance trusts in England to publish the following information on the internet within two weeks of the end of each month—
 - (a) category 1, 2, 3 and 4 ambulance response times for the trust area for the previous month broken down by—
 - (i) integrated care system area, and
 - (ii) postcode, and
 - (b) for all incidents where the relevant response time was missed by a margin set out in the regulations, a detailed explanation of why that target was missed.
- (2) In this section—

“ambulance trusts” means ambulance trusts whether they are NHS trusts or NHS foundation trusts;

“category 1, 2, 3, and 4 ambulance response times” has the meaning given in the NHS England Ambulance Response Programme.
- (3) Regulations under this section may make such incidental or transitional provision as the Secretary of State considers appropriate.

After Clause 148 - continued

- (4) Regulations under this section must be made by statutory instrument and are subject to annulment in pursuance of a resolution of either House of Parliament.”

Member’s explanatory statement

This amendment would require ambulance services to provide more accessible and localised reports of ambulance response times.

BARONESS FINLAY OF LLANDAFF
LORD SHIPLEY

296 Insert the following new Clause –

“Quinquennial report on alcohol treatment services outcomes

The Secretary of State must lay before Parliament every five years a report on –

- (a) the ways in which alcohol treatment providers have reduced excess mortality, alcohol-related hospital admissions, and the burden of disease resulting from alcohol consumption,
- (b) the ways that different services meet individual needs,
- (c) an assessment of the number of people identified as requiring support who are not receiving treatment, and
- (d) the impact of the level of funding on outcomes from alcohol treatment providers.”

Member’s explanatory statement

This new Clause would require the Secretary of State for Health and Social Care to make a 5-year statement on cost-efficacy of alcohol services.

LORD FORSYTH OF DRUMLEAN
LORD FALCONER OF THOROTON
LORD WARNER
BARONESS HAYTER OF KENTISH TOWN

297 Insert the following new Clause –

“Assisted dying

- (1) The Secretary of State must, within the period of 12 months beginning with the day on which this Act is passed, lay before Parliament a draft Bill to permit terminally ill, mentally competent adults legally to end their own lives with medical assistance.
- (2) In preparing the draft Bill and any accompanying documents and in making arrangements to lay them before Parliament, the Secretary of State must take account of the need –
 - (a) to respect that this is a matter of conscience, and
 - (b) to enable Parliament to consider the issue.”

After Clause 148 - continued

BARONESS HODGSON OF ABINGER
 BARONESS SMITH OF NEWNHAM
 BARONESS CUMBERLEGE

297A Insert the following new Clause—

“Named GPs for over-65s

Within 12 months of the passing of this Act, the Secretary of State must ensure that every patient over the age of 65 is assigned a general practitioner responsible for the patient's healthcare who is identified by name—

- (a) to see the patient when requested by the patient or by the patient's family or, where the general practitioner is unavailable, to maintain overall responsibility for care and communication,
- (b) to communicate with the patient or the patient's family where appropriate,
- (c) to be responsible for the patient's overall care, and
- (d) to ensure that the patient's health care needs are met.”

Member's explanatory statement

This amendment is to ensure that named GPs see and have some knowledge of each patient that they are responsible for and will communicate with them and the family.

BARONESS BOYCOTT

297B Insert the following new Clause—

“Impact of free school meals and holiday meal provision on children's health

The Secretary of State must lay before Parliament a report on the impact of universal free school meals and school holiday meal provision on children's health.”

LORD MOYNIHAN
 BARONESS MORRIS OF YARDLEY
 LORD WILLIS OF KNARESBOROUGH
 BARONESS GREY-THOMPSON

297C Insert the following new Clause—

“Office for Health Promotion

- (1) The Office for Health Improvement and Disparities is to be re-established on a statutory footing, as the Office for Health Promotion (“the Office”).
- (2) The Office is an independent advisory board to the Department for Health and Social Care.
- (3) As part of its duties, the Office must publish a National Plan for Sport, Health and Wellbeing.
- (4) The aim of the National Plan for Sport, Health and Wellbeing is to—
 - (a) tackle preventable factors causing death and ill health in the UK;
 - (b) demonstrate ways in which sports can help to strengthen social ties;
 - (c) direct funding for sport;

After Clause 148 - continued

- (d) include measures to promote physical access to the countryside;
- (e) identify ways in which schools and colleges are to be encouraged to develop closer links with local sports clubs;
- (f) include a fully costed National Facilities Plan and specific efforts to tackle discrimination and ensure there is a safe environment for all participants;
- (g) instil a life-long habit of sport and physical activity throughout the education system;
- (h) include a comprehensive approach to welfare, care and safeguarding including reports on enforcement of welfare, care and safeguarding standards in sports governing bodies;
- (i) lead national efforts to improve people's health by tackling obesity, improving mental health and promoting physical activity;
- (j) establish a Physical Activity Observatory to act as a centre for independent research and analysis of physical activity data to input into the design of the National Plan for Sport, Health and Wellbeing;
- (k) promote, encourage and raise awareness of the benefits of participation in sport for health, longevity, fitness, social interaction and wellbeing, and the other health benefits of exercise for all individuals, with the aim of preventing the onset of avoidable physical and mental illness and protecting people's health; and
- (l) promote clean athletes and the integrity of sport.”

LORD HUNT OF KINGS HEATH
LORD SINGH OF WIMBLEDON

297D

Insert the following new Clause –

“Review of institutional abuses in care settings

- (1) Within six months of the passing of this Act, the Secretary of State must establish an independent review (“the review”) of practices within care settings whereby –
 - (a) service users are denied visits from, or contact with, family members or informal carers, or
 - (b) care home residents are issued with eviction notices,
 without reasonable cause, following complaints made or safeguarding alerts raised.
- (2) Within 18 months of the passing of this Act, the Secretary of State must publish and lay before Parliament a report from the review.
- (3) The review must examine evidence of the incidence of the abuses in subsection (1), and of their effects on the emotional, psychological, social and physical health of service users, and on the well-being of service users, their family members and other informal carers.
- (4) The evidence examined under subsection (3) must include, but must not be limited to, evidence gathered by means of a public consultation.

After Clause 148 - continued

- (5) The review must consider, among other matters, whether the existing legislative and regulatory framework is adequate to ensure that service users are protected from the abuses in subsection (1) effectively, in a timely way, and without any discrimination relating to disability or any other protected characteristic under the Equality Act 2010, and in particular whether there is a need for legislation to –
- (a) impose on service providers a statutory duty of care requiring them to facilitate caring relationships with service users as far as is reasonably practicable,
 - (b) prohibit care homes from issuing notices to quit within a certain period following unresolved, non-vexatious and non-repetitive written complaints or safeguarding alerts, or during the progress of any enquiries being carried out under section 42 of the Care Act 2014, and
 - (c) confer on service users, family members and other informal carers a right of private legal action, so that, where breaches of the obligations in paragraphs (a) or (b) occur, emergency injunctive relief may be obtained or damages awarded, as appropriate.
- (6) In this section, “service provider” and “service user” have the meanings given by regulation 2 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936).”

LORD STOREY

297E Insert the following new Clause –

“NHS Redress Act 2006: repeal

The NHS Redress Act 2006 is repealed.”

LORD BLENCATHRA

BARONESS NICHOLSON OF WINTERBOURNE

297F Insert the following new Clause –

“References to women inpatients

- (1) An NHS Trust must not record or refer to women who –
 - (a) have requested a sex-specific ward, or
 - (b) have made a complaint to the relevant NHS Trust about being accommodated with inpatients who have undergone gender reassignment,
 in pejorative terms, including the term “transphobe”, on that ground alone.
- (2) An NHS Trust must not record women who have undertaken the action referred to in subsection (1)(a) or (1)(b) as having committed a non-crime hate incident on that ground alone.”

After Clause 148 - continued

297G Insert the following new Clause—

“Sex-specific wards for inpatients

- (1) Where a person is an inpatient, that person must be ordinarily treated with respect to accommodation and facilities in the hospital by reference to their natal sex.
- (2) In particular, accommodation and facilities for biological sex women must be used exclusively by natal women.
- (3) NHS Trusts must ensure that people who identify as a gender different from their natal sex are offered accommodation and facilities equal to those who identify with a gender that is the same as their natal sex.
- (4) This section applies whether or not the person has a gender recognition certificate.
- (5) Within 12 months the Secretary of State must ensure accommodation and facilities are available for the purposes of this section.”

BARONESS FINLAY OF LLANDAFF

297H Insert the following new Clause—

“Retention of human tissues

After section 11 of the Human Tissue Act 2004 insert—

“11A Tissue samples becoming part of medical records of deceased adults

- (1) This section applies to tissue samples removed from the body of a deceased adult (or from an organ which was removed from the body) during an examination of the body carried out on or after the day on which this section comes into force for the purposes of the functions of, or under the authority of, the Coroner.
- (2) If the NHS Trust or Health Board responsible for the administration of the hospital in which an examination referred to in subsection (1) was carried out receives a notice in writing from the Coroner that a tissue sample specified in the notice and removed from the body of a deceased adult so specified is no longer required for the purposes of the functions of the Coroner, on the date of the notice the tissue sample becomes, and accordingly must be retained as, part of the medical records of the deceased adult.
- (3) Where, by virtue of notice under subsection (2), tissue samples become part of the medical records of a deceased adult, they may be used for any of the following purposes—
 - (a) providing information about or confirming the cause of death;
 - (b) investigating the effect and efficacy of any medical or surgical intervention carried out on the person;
 - (c) obtaining information which may be relevant to the health of any other person (including a future person);
 - (d) audit;
 - (e) education, training or research, provided that appropriate consent for such use has been given under section 3(6).

After Clause 148 - continued

- (4) Notice under subsection (2) may be—
 - (a) delivered in person,
 - (b) posted, or
 - (c) transmitted by electronic means.
- (5) Where notice is posted, it is to be deemed to have been received on the third day after the day of posting.
- (6) Where notice is transmitted by electronic means, it is to be deemed to have been received on the day of transmission.””

Member’s explanatory statement

Coroner Post Mortem (PM) examination and the storage of tissue removed during PM do not require consent from the family of the deceased. However, once the Coroner’s authority has ended, consent is required from the deceased’s relatives to retain the slides and tissue. In practice this results in most histology slides and paraffin blocks of tissue taken at Coroners’ PMs being disposed of and lost for teaching, educational and audit purposes. This would bring England and Wales in line with legislation in Scotland.

BARONESS BARKER

297J Insert the following new Clause—

“Collaboration between NHS and local authorities: sexual health and HIV services

- (1) Within six months of the day on which this Act is passed, the Secretary of State must lay before Parliament a report on the effectiveness of the collaboration between the NHS and local authorities in the commissioning and delivery of sexual health and HIV services.
- (2) The report under subsection (1) must include a recommendation as to whether there should be a formal duty for collaboration between the NHS and local authorities on the commissioning and delivery of sexual health and HIV services.”

Member’s explanatory statement

This amendment would require the Secretary of State to report on the collaboration between the NHS and local authorities in the commissioning and delivery of sexual health and HIV services.

LORD HUNT OF KINGS HEATH

297K Insert the following new Clause—

“Secretary of State: Duty to promote and ensure the full integration of self care for minor ailments within the health system

- (1) The Secretary of State, in exercise of his or her functions, must promote self care for minor ailments and prepare a national self care strategy to integrate self care fully into the wider health system.
- (2) The national self care strategy referred to in subsection (1) must include measures to—
 - (a) improve inequalities in health literacy,
 - (b) enhance the understanding of primary and secondary age children on how to self care,

After Clause 148 - continued

- (c) introduce self care modules in healthcare professionals' training curricula and continuing professional development,
- (d) make best use of, and expand, the Community Pharmacist Consultation Service,
- (e) improve access to effective self care treatments,
- (f) enable community pharmacists to refer people directly to other healthcare professionals,
- (g) ensure better support for Primary Care Networks (PCNs) to deliver self care,
- (h) evaluate the use of technologies developed during the COVID-19 pandemic to promote greater self care, and
- (i) accelerate efforts to enable community pharmacists to populate medical records.”

Member's explanatory statement

This amendment would ensure that the Secretary of State promotes self care for minor ailments and publishes a national self care strategy to fully integrate it into the wider health system.

After Clause 95

LORD HUNT OF KINGS HEATH
BARONESS THORNTON

308 Insert the following new Clause –

“Pre-appointment scrutiny of HSSIB chair and Chief Investigator

Appointments to the posts of –

- (a) chair, and
- (b) Chief Investigator

of the HSSIB must be subject to pre-appointment scrutiny by the House of Commons Health and Social Care Select Committee.”

Member's explanatory statement

This reflects a recommendation of the Joint Select Committee, to provide pre-appointment scrutiny to the appointment of the HSSIB Chair and Chief Investigator.

Clause 97

LORD HUNT OF KINGS HEATH
LORD PATEL

309 Page 90, line 14, at end insert –

- “(10) Where the Secretary of State directs the HSSIB to carry out an investigation under this section, the Secretary of State must take steps to ensure adequate funding and resources are made available to the HSSIB to permit such an investigation to be carried out.”

Member's explanatory statement

This amendment seeks to ensure that the HSSIB has sufficient resources at its disposal to mount investigations directed by the Secretary of State.

After Clause 98

BARONESS KRAMER

309A★ Insert the following new Clause –

“Whistleblowing

- (1) The HSSIB has responsibility for setting in place a secure process for whistleblowers to report on a confidential basis concerns on patient safety.
- (2) The HSSIB must as far as is practicable inform the whistleblower of their decision on whether or not to pursue an investigation and on the conclusions of any investigation.
- (3) The HSSIB must report to the Secretary of State for any material detriment experienced by a whistleblower including dismissal, demotion or formal or informal blacklisting and any non-disclosure agreement included in any settlement with a whistleblower.
- (4) The HSSIB must report annually to Parliament on –
 - (a) the number of whistleblowing reports received;
 - (b) the number of whistleblowing reports investigated;
 - (c) any sector or regional trends evident in the reporting.
- (5) For the purposes of this section a whistleblower is defined as any person reporting information on any activity that is deemed illegal, unethical or not in keeping with patient safety.”

Member's explanatory statement

This amendment gives the HSSIB responsibility for setting in place a secure process for whistleblowers to report on a confidential basis concerns on patient safety.

Clause 99LORD HUNT OF KINGS HEATH
LORD PATEL

310 Page 91, line 36, at end insert –

- “(8) Within 12 months of a report being sent to the Secretary of State under this section, the Secretary of State must lay a report before Parliament setting out what action the Secretary of State has taken in response to the report.”

Member's explanatory statement

This would require the Secretary of State to lay a report before Parliament, within 12 months of receiving a HSSIB report, setting out what action the Secretary of State has taken in response.

Clause 109

BARONESS YOUNG OF OLD SCONE
LORD PATEL

310A★ Page 96, line 39, leave out from “Part” to end of line 19 on page 97

Member’s explanatory statement

This amendment would remove the ability of the Secretary of State to make regulations authorising disclosure of protected material beyond that provided for in the Bill.

Schedule 14

BARONESS NEUBERGER
BARONESS PARMINTER
LORD ETHELTON

311 Page 229, line 39, at end insert –

- “5A(1) The Commissioner may under section 12 of the Health Service Commissioners Act 1993 (evidence) or section 8 of the Parliamentary Commissioner Act 1967 (evidence) require the disclosure of protected material by the HSSIB to the Health Service Commissioner for England in accordance with those sections.
- (2) The HSSIB may disclose protected material to the Commissioner for the purposes of complying with a requirement imposed under a provision mentioned in sub-paragraph (1).
- (3) The HSSIB may disclose protected material to the Commissioner if the Chief Investigator reasonably believes that the Commissioner could require the HSSIB to disclose the material under a provision mentioned in sub-paragraph (1).
- (4) If protected material is disclosed to the Commissioner under or by virtue of this paragraph, the Commissioner must not disclose that material to another person, subject to sub-paragraphs (5) to (7).
- (5) The Commissioner may apply to the High Court for an order that protected material disclosed to the Commissioner under or by virtue of this paragraph may, for the purposes specified in the application, be disclosed by the Commissioner –
- (a) in the course of an investigation under the Health Service Commissioners Act 1993,
 - (b) in the course of an investigation under the Parliamentary Commissioner Act 1967,
 - (c) in a report made under section 14 of the Health Service Commissioners Act 1993 (reports by the Commissioner),
 - (d) in a report made under section 10 of the Parliamentary Commissioner Act 1967 (reports by Commissioner),
 - (e) otherwise to another person.
- (6) The HSSIB may make representations to the High Court about any application under sub-paragraph (5).
- (7) The High Court may make an order on an application under sub-paragraph (5) only if it determines that the interests of fairness served by the disclosure outweigh –

Schedule 14 - continued

- (a) any adverse impact on current and future investigations by deterring persons from providing information for the purposes of investigations, and
 - (b) any adverse impact on securing the improvement of the safety of health care services provided to patients in England.
- (8) In this paragraph “the Commissioner” means a person appointed as the Health Service Commissioner for England under paragraph 1 of Schedule 1 to the Health Service Commissioners Act 1993, or a person appointed as the Parliamentary Commissioner for Administration under section 1 of the Parliamentary Commissioner Act 1963 as the case may be.”

BARONESS YOUNG OF OLD SCONE
LORD PATEL

311A★ Page 229, line 41, leave out paragraph 6

Member’s explanatory statement

This amendment, along with another amendment to Clause 111 in the name of Baroness Young of Old Scone, would remove the provision allowing coroners to require the disclosure of protected material.

Clause 111

LORD KAMALL

312 Page 98, line 19, leave out from “provision” to the end of line 23 and insert “—

- (i) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and
- (ii) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.”

Member’s explanatory statement

This amendment makes a drafting change to reflect the fact that consent of the Secretary of State under section 8 of the Northern Ireland Act 1998 is given in relation to an Assembly Bill rather than an Assembly Act.

BARONESS YOUNG OF OLD SCONE
LORD PATEL

312A★ Page 98, line 29, leave out subsection (7)

Member’s explanatory statement

This amendment, along with another amendment to Schedule 14 in the name of Baroness Young of Old Scone, would remove the provision allowing coroners to require the disclosure of protected material.

Clause 81

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES

298 Page 71, leave out lines 34 to 37

Member's explanatory statement

The intention of the amendment is to retain the existing obligations on NHS England to have regard to standards published under this section. Clause 81 (d)(6B) appears to remove the explicit obligation that previously existed under Section 250(6)(b) of Health and Social Care Act 2012 that NHS England ("the Board") "must have regard to an information standard published under this section" and replaces it with a power for such obligations to be waived by Regulations.

299 Page 73, line 4, at end insert—

“(4A) In section 261 (other dissemination of information), in all places that it appears, for “such form and manner”, substitute “an accredited data access environment”.”

Member's explanatory statement

The amendment aims to restrict existing dissemination of information via access in an accredited data access environment. The term ‘accredited data access environment’ is used rather than ‘Trusted Research Environment’ because, while the environment must work for research, it must equally work for planning purposes. Reflecting the DHSC commitment that GP data will be exclusively used in a Trusted Research Environment (TRE), this new clause amends the dissemination powers of NHS Digital to reflect stated policy and the promises made both to patients and to the profession.

After Clause 81

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES
BARONESS CUMBERLEGE

300 Insert the following new Clause—

“Shared care records

- (1) A shared care record may only be used for the purposes of the provision of direct care exclusively, and use for any other purpose contravenes of the purpose limitation principle of the Data Protection Act 2018.
- (2) Any offer of a shared care record must include the option of being able to opt out from having a shared care record.
- (3) Opt-outs under subsection (2) must be managed by the Health and Social Care Information Centre, and include the option of opting out via the NHS website.
- (4) The Secretary of State and NHS England must not promote any shared care record until the following conditions have been met—
 - (a) NHS Digital has made a statement that it has achieved the technical capability to meet the requirements of subsections (2) and (3) regarding opt outs,

After Clause 81 - continued

- (b) the Secretary of State has scrutinised and endorsed the statement of NHS Digital, and
- (c) information about the provision in subsection (3) has been communicated in writing to every patient registered with a GP in England.”

Member’s explanatory statement

The aim of the amendment is to discover what progress has been made in relation to the introduction to shared care records.

BARONESS MORGAN OF COTES

LORD MOYLAN

BARONESS FRASER OF CRAIGMADDIE

301 Insert the following new Clause—

“Interoperability of data and collection of comparable healthcare statistics across the UK

- (1) The Health and Social Care Act 2012 is amended as follows.
- (2) In section 250 (information standards)—
 - (a) in subsection (3), at the beginning, insert “Subject to subsection (3A)”;
 - (b) after subsection (3), insert the following subsection—
 - “(3A) The Secretary of State may also exercise the power under subsection (1) so as to specify binding data interoperability requirements which apply across the whole of the United Kingdom, and an information standard prepared and published by virtue of this subsection may apply to any public body which exercises functions in connection with the provision of health services anywhere in the United Kingdom.”;
 - (c) after subsection (6D) (inserted by section 81 of this Act), insert the following subsection—
 - “(6E) The Secretary of State must report to Parliament each year on progress on the implementation of an information standard prepared in accordance with subsection (3A).”
- (3) In section 254 (powers to direct Information Centre to establish information systems), after subsection (2), insert—
 - “(2A) The Secretary of State must give a direction under subsection (1) directing the Information Centre to collect and publish information about healthcare performance and outcomes in all parts of the United Kingdom in a way which enables comparison between different parts of the United Kingdom.
 - (2B) Scottish Ministers, Welsh Ministers and Northern Ireland Ministers must arrange for the information relating to the health services for which they have responsibility described in the direction made under subsection (2A) to be made available to the Information Centre in accordance with the direction.””

Member's explanatory statement

This new Clause would enable the Secretary of State to specify binding data interoperability standards across the UK, require the collection and publication of comparable information about healthcare performance and outcomes across the UK, and require Ministers in the devolved institutions to provide information on a comparable basis.

Clause 82

LORD HUNT OF KINGS HEATH

LORD PATEL

302 Page 73, line 26, at end insert –

“(2A) Healthwatch England has the power to impose a requirement under subsection (1) on providers and commissioners of publicly funded health and care services to capture relevant data to enable Healthwatch to carry out its functions as the statutory champion for people using health and care services.”

Member's explanatory statement

The amendment is aimed at ensuring that local Healthwatch or Healthwatch England have access to relevant data and patient feedback information.

303 Page 73, line 31, at end insert –

“(4A) Regulations may be introduced to enable any relevant local Healthwatch, or Healthwatch England, to request patient feedback data gathered by any provider or commissioner of a publicly funded health and social care service.”

Member's explanatory statement

The amendment is aimed at ensuring that local Healthwatch or Healthwatch England have access to relevant data and patient feedback information.

Clause 83

LORD HUNT OF KINGS HEATH

LORD CLEMENT-JONES

304 Page 74, line 8, leave out subsection (2) and insert –

“(2) In section 253(1) (general duties of the Information Centre), omit paragraphs (ca) and (d), and insert at the end –

“(d) facilitating research and planning for health and social care in England, and

(e) patients' ability to dissent from data being used for purposes beyond direct care through the National Data Opt-out.”

Member's explanatory statement

The aim of the amendment is to require NHS England to balance the needs of research and planning with patient dissent from data used for purposes beyond direct care.

305 Page 74, line 16, at end insert –

“(2A) In section 253(2) (general duties of the Information Centre), at the end of paragraph (b) insert “, and

Clause 83 - continued

- (c) allow any patient with a verified NHS Login to see a personalised data usage report containing detail of every use of data about them for purposes beyond direct care, and showing how the balance of duties upon the public body were applied in decisions permitting those uses.””

Member’s explanatory statement

The amendment adds an obligation on the public body to show each verified patient how data about them is used, and how the duties of the Health Services Information Centre have been implemented.

LORD CLEMENT-JONES
LORD HUNT OF KINGS HEATH

305A Page 74, line 18, at end insert –

- “(4) The Information Centre must establish a fund (“the Sovereign Health Fund”) with the following objectives –
- (a) to invest in a portfolio of data-driven healthcare assets and enterprises using public and private funds for the purpose of generating long-term income for health and care purposes in the United Kingdom;
 - (b) to receive, reinvest and redistribute the revenue derived from the data, insights, tools and intellectual property developed by health and care organisations within the public health and care system of the United Kingdom, including from data held by the Information Centre.”

Member’s explanatory statement

This amendment would require the Health and Social Care Information Centre to establish a fund to invest in data-driven healthcare assets to generate long-term income for health and care in the UK.

Clause 85

BARONESS FINLAY OF LLANDAFF

306 Page 75, line 40, after “assistance” insert “or any form of reablement and rehabilitation provided under section 2 of the Care Act 2014 to reduce the need for care and support”

Member’s explanatory statement

These changes would bring local authority reablement and rehabilitation activities, defined by Care and Support Statutory Guidance as “tertiary prevention”, into regulation and enable the Secretary of State to require information on their operation.

Clause 87

BARONESS MCINTOSH OF PICKERING

306A Page 80, line 19, at end insert –

- “(e) requiring the Secretary of State to facilitate sharing of information for research purposes.”

Member's explanatory statement

This amendment would require the linking of information systems to ensure engagement with equivalent international bodies and enable better sharing of data for post-market surveillance.

306B Page 81, line 26, at end insert –

- “(14) The provision mentioned in subsection (2)(e) may include provision about the sharing of information with those relevant bodies requiring it in order to exercise their functions with regard to research.
- (15) In this section “relevant body” means –
- (i) the National Institute for Health Research;
 - (ii) such other organisations as the Secretary of State considers appropriate.”

Member's explanatory statement

This amendment would require the linking of information systems to ensure engagement with equivalent international bodies and enable better sharing of data for post-market surveillance.

306C Page 81, line 40, at end insert –

“7C Linking information systems

- (1) Any information system established under section 7A(1) must include provision –
- (a) requiring the Information Centre to engage with international equivalent bodies to ensure and enable best practice and harmonisation;
 - (b) conferring on the appropriate authority a power to request all information deemed necessary for the purposes of its functions under the regulations;
 - (c) requiring the Information Centre to provide all information collected under paragraph (b) to any relevant body for post-market surveillance requirements, in order to optimise patient safety.
- (2) In this section –
- “post-market surveillance” has the same meaning as in the Medical Devices Regulations 2002 (S.I. 2002/618, as amended);
- “relevant body” means –
- (a) NHS England,
 - (b) the Medicines and Healthcare products Regulatory Agency,
 - (c) the Health Research Authority,
 - (d) such other organisations as the Secretary of State considers appropriate.”

Member's explanatory statement

This amendment would require the linking of information systems to ensure engagement with equivalent international bodies and enable better sharing of data for post-market surveillance.

306D Page 82, line 8, at end insert –

- “(4A) After section 19 insert –
- “19A Linking information systems**

Clause 87 - continued

- (1) Any information system established under section 19(1) must include provision—
 - (a) requiring the Information Centre to engage with international equivalent bodies to ensure and enable best practice and harmonisation;
 - (b) conferring on the appropriate authority a power to request all information deemed necessary to have for the purposes of its functions under the regulations;
 - (c) requiring the Information Centre to provide all information collected under paragraph (b) to be made available to any relevant body for post-market surveillance requirements, in order to optimise patient safety.
- (2) In this section—

“post-market surveillance” has the meaning under the Medical Devices Regulations 2002 (S.I. 2002/618, as amended);

“relevant body” means—

 - (a) NHS England;
 - (b) the Medicines and Healthcare products Regulatory Agency;
 - (c) the Health Research Authority;
 - (d) such other organisations as the Secretary of State considers appropriate.

19B Sharing information for research purposes

- (1) Any information system established under section 19(1) must make provision—
 - (a) requiring the Secretary of State to facilitate sharing of information for research purposes;
 - (b) about the sharing of information to those relevant bodies requiring it in order to exercise their functions with regard to research.
- (2) In this section “relevant body” means—

the National Institute for Health Research;

such other organisations as the Secretary of State considers appropriate.””

Member’s explanatory statement

This amendment would require the linking of information systems relating to medical devices to ensure engagement with equivalent international bodies and enable better sharing of data for post-market surveillance of devices.

After Clause 87

BARONESS TYLER OF ENFIELD
BARONESS FINLAY OF LLANDAFF

307 Insert the following new Clause –

“Using the NHS identification number as a single unique identifier for children

Within one year of the passing of this Act, the Secretary of State must publish plans for using the NHS number as a single unique identifier for children in health and care.”

Member’s explanatory statement

This amendment would require the Secretary of State to develop and publish plans on how the NHS number could be used as a single unique identifier for children, to better facilitate data and information sharing.

Clause 88

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES

227 Page 83, line 6, leave out paragraph (b)

Member’s explanatory statement

The Government has announced that it will be using the powers in this Clause to merge NHS Digital and NHSX to form part of the new Transformation Directorate within NHSE. The Health and Social Care Information Centre is an executive non-departmental public body created by statute, also known as NHS Digital. This amendment which would prevent this happening to the Health and Social Care Information Centre, is designed to probe what safeguards are being built in to protect patient data.

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 88 stand part of the Bill.

Member’s explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

Clause 89

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES

228 Page 83, line 23, at end insert –

“(3A) Regulations under this section may not transfer a function as defined in Part 9 of the Health and Social Care Act 2012.”

Member's explanatory statement

Part 9, Chapter 2 of the Health and Social Care Act 2012 lays out the functions and obligations of the statutory safe haven for patient data from across health and social care system, required for the production of national statistics and for commissioning, regulatory and research purposes, in addition to supporting patient care. The amendment seeks to keep these statutory protections in place and ensure that NHS England do not take on this responsibility because of a potential conflict of interest in their role.

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 89 stand part of the Bill.

Member's explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

Clause 90

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 90 stand part of the Bill.

Member's explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

Clause 91

LORD PATEL

LORD HUNT OF KINGS HEATH

BARONESS WALMSLEY

229 Page 84, line 43, leave out "include" and insert "mean"

Member's explanatory statement

This amendment will narrow the scope of Secretary of State's powers.

230 Page 85, line 1, leave out paragraphs (b) to (d)

Member's explanatory statement

This amendment will narrow the scope of Secretary of State's powers.

231 [Withdrawn]

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 91 stand part of the Bill.

Member's explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

Clause 92

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 92 stand part of the Bill.

Member's explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

Clause 93

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 93 stand part of the Bill.

Member's explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

Clause 94

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 94 stand part of the Bill.

Member's explanatory statement

This is part of a group that would remove part 3 from the Bill. It would prevent the following bodies being abolished: Health Education England, Health and Social Care Information Centre, Health Research Authority, Human Fertilisation and Embryology Authority, Human Tissue Authority.

313 [Withdrawn]

After Schedule 16

LORD KAMALL

313A Insert the following new Schedule—

“STORAGE OF GAMETES AND EMBRYOS

PART 1

AMENDMENTS TO HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

After Schedule 16 - continued*Introductory*

1 The Human Fertilisation and Embryology Act 1990 is amended as follows.

Maximum storage periods

2 (1) Section 14 (conditions of storage licences) is amended as follows.

(2) In subsection (1), for paragraph (c) substitute –

“(c) that the requirements of subsection (3) (maximum storage periods) are met.”.

(3) For subsections (3) to (5) substitute –

“(3) The requirements referred to in subsection (1)(c) are as follows –

(a) gametes must not be kept in storage for longer than such period not exceeding 55 years beginning with the day on which they are first placed in storage as the licence may specify;

(b) an embryo must not be kept in storage for treatment purposes for longer than such period not exceeding 55 years beginning with the day on which it is first so kept as the licence may specify;

(c) an embryo that is kept in storage for the research or training purpose but not for treatment purposes must not be so kept for longer than such period not exceeding 10 years beginning with the day on which consent was given under Schedule 3 to the storage of the embryo for that purpose as the licence may specify;

(d) a human admixed embryo must not be kept in storage for longer than such period not exceeding 10 years beginning with the day on which it is first placed in storage as the licence may specify.

(4) Where under Schedule 3 consent is given to the storage of an embryo for the training or research purpose by different persons on different days, the reference in subsection (3)(c) to the day on which consent was given is to be taken as a reference to the last of those days.

(5) For the purposes of this section –

(a) “treatment purposes” are purposes referred to in paragraph 2(1)(a) or (b) of Schedule 3;

(b) the “training purpose” is the purpose referred to in paragraph 2(1)(ba) of that Schedule;

(c) the “research purpose” is the purpose referred to in paragraph 2(1)(c) of that Schedule.”

3 In section 47 (index), omit the entry for the “Statutory storage period”.

4 In Schedule 3 (consents), in paragraph 2(2)(a), for “statutory storage period” substitute “period for which, by virtue of section 14(3), the gametes, embryo or human admixed embryo may be stored under the licence”.

Disposal of material

5 In section 14 (conditions of storage licences), in subsection (1), after paragraph (c) insert –

After Schedule 16 - continued

“(ca) that any gametes, embryos or human admixed embryos that have been kept in storage pursuant to the licence must, once they may no longer lawfully be so kept, be removed from storage and disposed of, and”.

- 6 In section 17 (the person responsible), in subsection (1)(c), for “allowed to perish” substitute “removed from storage”.

Consent to storage

- 7 (1) Schedule 3 (consents) is amended as follows.

- (2) In paragraph 1 –

- (a) in sub-paragraph (1), before the first “and” insert “any renewal of consent,”;
- (b) in sub-paragraph (2), before the first “and” insert “any renewal of consent by a person unable to sign,”;
- (c) in sub-paragraph (3) –
 - (i) the words from ““effective consent” to the end become paragraph (a);
 - (ii) after that paragraph insert –
 - “(b) references to renewal of consent are to renewal of consent to the storage of any gametes or embryo under paragraph 11A or 11C.”

- (3) In paragraph 3, in sub-paragraph (1), after “gives” insert “or renews”.

- (4) After paragraph 11 insert –

“Renewal of consent to storage of gametes

11A(1) This paragraph applies where –

- (a) the gametes of a person (“P”) are in storage,
 - (b) P’s consent to the storage of the gametes is required under paragraph 8(1),
 - (c) there is effective consent from P to the storage of the gametes, and
 - (d) the gametes are being kept for use for the purposes of providing treatment services to –
 - (i) P, or
 - (ii) P and another person together.
- (5) The person keeping the gametes in storage (“K”) must, in each consent period, request P to renew consent to storage of the gametes within the renewal period.
For the meaning of “consent period” and “renewal period”, see paragraph 11B.
- (6) A request under sub-paragraph (2) must be given in writing before the start of the renewal period.
- (7) The duty in sub-paragraph (2) ceases to apply if K is notified that P has died.
- (8) The duty in sub-paragraph (2) does not apply in relation to any consent period if –

After Schedule 16 - continued

- (a) K has at any time been informed in writing that P has been certified as lacking capacity to renew consent to storage of the gametes, and
 - (b) K has not subsequently been informed in writing, before the start of the renewal period which relates to that consent period, that P has been certified as having capacity to renew consent to storage of the gametes.
- (6) P renews consent by informing K in writing that P consents to the storage of the gametes.
- (7) If P's consent is not renewed under sub-paragraph (6) before the end of the consent period, K must, as soon as possible after the end of that period, give a notice to P stating that if P does not renew consent before the end of the renewal period, the gametes will be removed from storage and disposed of.
- (8) P's consent to the storage of the gametes is to be taken as having been withdrawn at the end of a renewal period that relates to a consent period if—
- (a) K has complied with the requirements of sub-paragraphs (2) and (7) in relation to that consent period, and
 - (b) P's consent is not renewed under sub-paragraph (6) before the end of the renewal period.
- But this is subject to sub-paragraphs (9) and (10).
- (9) If, in a case referred to in sub-paragraph (8)(a) and (b), P dies before the end of the renewal period—
- (a) P's consent is not to be taken as withdrawn under sub-paragraph (8), but
 - (b) if at the end of the period of 10 years beginning with the day on which P died there is still effective consent from P to the storage, P's consent is to be taken as withdrawn at that time.
- (10) If, in a case referred to in sub-paragraph (8)(a) and (b), before the end of the renewal period P is certified as lacking capacity to renew consent—
- (a) P's consent is not to be taken as withdrawn under sub-paragraph (8), but
 - (b) if at the end of the period of 10 years beginning with the day on which P was so certified there is still effective consent from P to the storage, P's consent is to be taken as withdrawn at that time.
- (11) But P's consent is not to be taken as withdrawn under sub-paragraph (10)(b) if, before the time it would be taken to be withdrawn under that sub-paragraph—
- (a) P is certified as having capacity to renew consent to storage of the gametes, and
 - (b) P renews consent to storage of the gametes by informing K in writing that P consents to their storage.
- (12) In a case where P renews consent under sub-paragraph (11)(b), this paragraph applies subsequently as if references to a consent period were to—
- (a) the period of 10 years beginning with the day on which P so renewed consent, and

After Schedule 16 - continued

- (b) each successive period of 10 years.
- 11B (1) For the purposes of paragraph 11A, each of the following is a “consent period” –
- (a) the period of 10 years beginning with the relevant day, and
 - (b) each successive period of 10 years.
- (2) In sub-paragraph (1)(a) “relevant day” means –
- (a) the day on which the gametes are first placed in storage, or
 - (b) in a case where sub-paragraph (3) or (5) applies, the day on which P gives consent to the storage of the gametes.
- (3) This sub-paragraph applies where the gametes are taken from or provided by P before P attains the age of 18 years and, at the time the gametes are first stored –
- (a) P has not attained the age of 16 years and is not competent to deal with the issue of consent to storage of the gametes, or
 - (b) P has attained that age but, although not lacking capacity to consent to the storage of the gametes, is not competent to deal with the issue of consent to their storage.
- (4) In relation to Scotland, sub-paragraph (3) is to be read as if, for paragraphs (a) and (b), there were substituted “P does not have capacity (within the meaning of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991) to consent to storage of the gametes”.
- (5) This sub-paragraph applies where the gametes are taken from or provided by P after P attains the age of 16 years and, at the time the gametes are first stored, P lacks capacity to consent to their storage.
- (6) In paragraph 11A “the renewal period”, in relation to a consent period, means the period which –
- (a) begins 12 months before the end of the consent period, and
 - (b) ends 6 months after the end of the consent period.
- (7) In paragraph 11A “certified” means certified in writing by a registered medical practitioner.
- (8) In paragraph 11A and this paragraph, in relation to Scotland, references to a person lacking or having capacity to consent or renew consent are to be read as references to the person being or not being incapable (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000) of consenting or renewing consent.

Renewal of consent to storage of embryos

- 11C (1) This paragraph applies where –
- (a) an embryo, the creation of which was brought about *in vitro*, is in storage,
 - (b) the embryo is being kept for use for the purposes of providing treatment services to –
 - (i) a person (“P”) whose gametes or human cells were used to bring about the creation of the embryo, or
 - (ii) P and another person together,
 - (c) P’s consent to the storage of the embryo is required under paragraph 8(2), and
 - (d) there is effective consent from P to the storage of the embryo.

After Schedule 16 - continued

- (2) The person keeping the embryo in storage (“K”) must, in each consent period, request P to renew consent to storage of the embryo within the renewal period.

For the meaning of “consent period” and “renewal period”, see paragraph 11D.

- (3) A request under sub-paragraph (2) must be given in writing before the start of the renewal period.
- (4) The duty in sub-paragraph (2) ceases to apply if—
- (a) K is notified that P has died, or
 - (b) K is notified under paragraph 4A(1)(c) of the withdrawal of a person’s consent to storage of the embryo.
- (5) The duty in sub-paragraph (2) does not apply in relation to any consent period if—
- (a) K has at any time been informed in writing that P has been certified as lacking capacity to renew consent to storage of the embryo, and
 - (b) K has not subsequently been informed in writing, before the start of the renewal period which relates to that consent period, that P has been certified as having capacity to renew consent to storage of the embryo.
- (6) P renews consent by informing K in writing that P consents to the storage of the embryo.
- (7) If P’s consent is not renewed under sub-paragraph (6) before the end of the consent period, K must, as soon as possible after the end of that period, give a notice to P stating that if P does not renew consent before the end of the renewal period, the embryo will be removed from storage and disposed of.
- (8) P’s consent to the storage of the embryo is to be taken as having been withdrawn at the end of a renewal period that relates to a consent period if—
- (a) K has complied with the requirements of sub-paragraphs (2) and (7) in relation to that consent period, and
 - (b) P’s consent is not renewed under sub-paragraph (6) before the end of the renewal period.

But this is subject to sub-paragraphs (9) and (10).

- (9) If, in a case referred to in sub-paragraph (8)(a) and (b), P dies before the end of the renewal period—
- (a) P’s consent is not to be taken as withdrawn under sub-paragraph (8), but
 - (b) if at the end of the period of 10 years beginning with the day on which P died there is still effective consent from P to the storage, P’s consent is to be taken as withdrawn at that time.
- (10) If, in a case referred to in sub-paragraph (8)(a) and (b), before the end of the renewal period P is certified as lacking capacity to renew consent—
- (a) P’s consent is not to be taken as withdrawn under sub-paragraph (8), but

After Schedule 16 - continued

- (b) if at the end of the period of 10 years beginning with the day on which P was so certified there is still effective consent from P to the storage, P's consent is to be taken as withdrawn at that time.
- (11) But P's consent is not to be taken as withdrawn under sub-paragraph (10)(b) if, before the time it would be taken to be withdrawn under that sub-paragraph—
 - (a) P is certified as having capacity to renew consent to storage of the embryo, and
 - (b) P renews consent to storage of the embryo by informing K in writing that P consents to its storage.
- (12) In a case where P has renewed consent under sub-paragraph (11)(b), this paragraph applies subsequently as if references to the consent period were to—
 - (a) the period of 10 years beginning with the day on which P so renewed consent, and
 - (b) each successive period of 10 years.
- (13) Where P's consent is taken as withdrawn under this paragraph, K must, as soon as possible, take all reasonable steps to give notice of the withdrawal to each person whose gametes or human cells were used to bring about its creation.
- (14) Storage of the embryo remains lawful until—
 - (a) the end of the period of 6 months beginning with the day on which P's consent is taken as withdrawn under this paragraph, or
 - (b) if, before the end of that period, K receives a notice from each person notified under sub-paragraph (13) stating that the person consents to the disposal of the embryo, the time at which the last of those notices was received.
- 11D(1) For the purposes of paragraph 11C , each of the following is a “consent period”—
 - (a) the period of 10 years beginning with the day on which the embryo is first placed in storage, and
 - (b) each successive period of 10 years.
- (2) In paragraph 11C “the renewal period”, in relation to a consent period, means the period which—
 - (a) begins 12 months before the end of the consent period, and
 - (b) ends 6 months after the end of the consent period.
- (3) In paragraph 11C “certified” means certified in writing by a registered medical practitioner.
- (4) In paragraph 11C , in relation to Scotland, references to a person lacking or having capacity to renew consent are to be read as references to the person being or not being incapable (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000) of renewing consent.”

PART 2

TRANSITIONAL PROVISION

Interpretation

- 8 (1) In this Part of this Schedule—

After Schedule 16 - continued

“the commencement day” means 1 July 2022;

“the transitional period” means the period beginning with the commencement day and ending with 30 June 2024.

(2) In this Part of this Schedule –

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990;

“the 2009 Regulations” means the Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) Regulations 2009 (S.I. 2009/1582);

“the 2020 Regulations” means the Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) (Coronavirus) Regulations 2020 (S.I. 2020/566).

(3) In this Part of this Schedule –

“gamete storage licence” means a licence under Schedule 2 to the 1990 Act that authorises the storage of gametes;

“embryo storage licence” means a licence under Schedule 2 to the 1990 Act that authorises the storage of embryos;

“storage licence” means a licence under Schedule 2 to the 1990 Act that authorises the storage of gametes, embryos or human admixed embryos;

“pre-commencement”, in relation to a storage licence, or a storage licence of any description, means granted before the commencement day and “post-commencement” means granted on or after that day.

(4) In this Part of this Schedule –

“statutory storage period” has the same meaning as in the 1990 Act immediately before the commencement day;

references to gametes, embryos and human admixed embryos have the same meaning as in that Act;

“the training purpose”, “the research purpose” and “treatment purposes” have the same meanings as in section 14(3)(c) of that Act.

Application of Part 1 to material already in storage

9 (1) The amendments in paragraphs 2 to 6 of this Schedule have effect in relation to pre-commencement storage licences under which gametes, embryos or human admixed embryos are kept in storage on or after the commencement day (as well as having effect in relation to post-commencement storage licences).

This is subject to sub-paragraphs (2) and (3).

(2) In the case of a pre-commencement embryo storage licence, the condition imposed by section 14(3)(c) of the 1990 Act (as substituted by paragraph 2 of this Schedule) does not apply in relation to an embryo which, on the commencement day, is kept in storage for the training or research purpose but not for treatment purposes.

(3) In the case of any pre-commencement storage licence, the condition imposed by section 14(1)(ca) of the 1990 Act (as substituted by paragraph 5 of this Schedule) applies only in relation to times on or after the commencement day.

After Schedule 16 - continued

- 10 The amendments made by paragraph 7 of this Schedule have effect in relation to the storage of gametes and embryos under a pre-commencement gamete or embryo storage licence, where the gametes or embryos are kept in storage on or after the commencement day (as well as having effect in relation to the storage of gametes and embryos under a post-commencement gamete or embryo storage licence).

Date of first storage

- 11 (1) This paragraph applies if the person storing gametes or an embryo under a pre-commencement gamete or embryo storage licence –
- (a) has, before the end of the transitional period, taken all reasonable steps to establish the date on which the gametes were or embryo was first placed in storage, but
 - (b) is unable to establish that date.
- (2) The person may give a notice to each person whose consent to the storage is required under Schedule 3 to the 1990 Act specifying a date on which the gametes are or embryo is to be regarded as having been first placed in storage.
- (3) Where notice is given under sub-paragraph (2), the gametes are or embryo is to be regarded, for all purposes of the 1990 Act and this Part of this Schedule, as having been first placed in storage on the date specified in the notice.

Storage periods specified in pre-commencement storage licences

- 12 (1) For the purposes of section 14(3)(a) of the 1990 Act (as substituted by paragraph 2 of this Schedule), a pre-commencement gamete storage licence under which, on and after the commencement day, gametes are kept in storage is to be regarded as specifying the period of 55 years beginning with the day on which the gametes were first placed in storage.
- (2) For the purposes of section 14(3)(b) of the 1990 Act (as substituted by paragraph 2 of this Schedule), a pre-commencement embryo storage licence under which, on and after the commencement day, an embryo is kept in storage for treatment purposes is to be regarded as specifying for those purposes the period of 55 years beginning with the day on which the embryo was first so kept.

Storage after expiry of pre-commencement consent

- 13 (1) If a pre-commencement consent to the storage of gametes or an embryo expires at any time in the transitional period, the storage of the gametes or embryo for the remainder of that period is not unlawful merely because of that fact.
- (2) In sub-paragraph (1) –
- (a) “pre-commencement consent” means consent given under Schedule 3 to the 1990 Act before the commencement day;
 - (b) the reference to expiry of consent does not include withdrawal.

Storage with no effective consent prior to commencement

- 14 (1) This paragraph applies in relation to the storage of gametes or an embryo under a pre-commencement gamete or embryo storage licence where, immediately before the commencement day, there is no effective consent to the storage by a relevant person.

After Schedule 16 - continued

- (2) The person keeping the gametes or embryo in storage must request the relevant person to give consent to the storage under Schedule 3 to the 1990 Act.
- (3) A request under sub-paragraph (2) must be given before 1 July 2023 in writing.
- (4) The storage of the gametes or embryo at any time before the end of the transitional period is not unlawful merely because there is no effective consent to the storage by the relevant person.
- (5) In this paragraph—
 - “effective consent” means consent under Schedule 3 to the 1990 Act which has not been withdrawn;
 - “relevant person” means a person whose consent is required under Schedule 3 to the 1990 Act to storage of the gametes or embryo.

Time for first renewal of consent

- 15 (1) This paragraph applies in relation to the storage of gametes under a pre-commencement gamete storage licence where the statutory storage period applicable immediately before the commencement day was provided for by—
 - (a) regulation 4, 4A, 7 or 8 of the 2009 Regulations, or
 - (b) regulation 4 of the 2020 Regulations.
- (2) For the purposes of paragraph 11A of Schedule 3 to the 1990 Act (as inserted by paragraph 7 of this Schedule), paragraph 11B(1)(a) of that Schedule has effect as if the reference to the period of 10 years beginning with the relevant day were a reference to the period which—
 - (a) begins with the relevant day, and
 - (b) ends at the end of the statutory storage period referred to in sub-paragraph (1).
- 16 (1) This paragraph applies in relation to the storage of an embryo under a pre-commencement embryo storage licence where the statutory storage period applicable immediately before the commencement day was provided for by—
 - (a) regulation 3, 3A, 5 or 6 of the 2009 Regulations, or
 - (b) regulation 3 of the 2020 Regulations.
- (2) For the purposes of paragraph 11C of Schedule 3 to the 1990 Act (as inserted by paragraph 7 of this Schedule), paragraph 11D(1)(a) of that Schedule has effect as if the reference to the period of 10 years beginning with the day on which the embryo was first placed in storage were a reference to the period which—
 - (a) begins with the day on which the embryo was first so placed, and
 - (b) ends at the end of the statutory storage period referred to in sub-paragraph (1).

Renewals falling due in the transitional period

- 17 (1) This paragraph applies in relation to the storage of gametes under a pre-commencement gamete storage licence in a case where—
 - (a) paragraph 11A of Schedule 3 to the 1990 Act applies in relation to the storage, and
 - (b) for the purposes of that paragraph, the first consent period (see paragraph 11B(1)(a) of that Schedule) ends in the transitional period.

After Schedule 16 - continued

- (2) Where this paragraph applies, paragraph 11A of Schedule 3 to the 1990 Act has effect in relation to that first consent period as if –
- (a) for sub-paragraphs (2) and (3) there were substituted –
 - “(2) The person keeping the gametes in storage (“K”) must request P to renew consent to storage of the gametes before 1 July 2024.
 - (3) A request under sub-paragraph (2) must –
 - (a) be given in writing before 1 July 2023;
 - (b) state that if P does not renew consent before 1 July 2024, the gametes will be removed from storage and disposed of.”;
 - (b) in sub-paragraph (5)(b), for “the start of the renewal period which relates to that consent period” there were substituted “1 July 2023”;
 - (c) sub-paragraph (7) were omitted;
 - (d) for sub-paragraph (8) there were substituted –
 - “(8) P’s consent to the storage of the gametes is to be taken as having been withdrawn at the beginning of 1 July 2024 if –
 - (a) K has complied with sub-paragraph (2), and
 - (b) P’s consent is not renewed under sub-paragraph (6) before 1 July 2024.
 But this is subject to sub-paragraphs (9) and (10).”;
 - (e) in sub-paragraphs (9) and (10), references to the end of the renewal period were to 1 July 2024.
- 18 (1) This paragraph applies in relation to the storage of an embryo under a pre-commencement embryo storage licence in a case where –
- (a) paragraph 11C of Schedule 3 to the 1990 Act applies in relation to the storage, and
 - (b) for the purposes of that paragraph, the first consent period (see paragraph 11D(1)(a) of that Schedule) ends in the transitional period.
- (2) Where this paragraph applies, paragraph 11C of Schedule 3 to the 1990 Act has effect in relation to that first consent period as if –
- (a) for sub-paragraphs (2) and (3) there were substituted –
 - “(2) The person keeping the embryo in storage (“K”) must request P to renew consent to storage of the embryo before 1 July 2024.
 - (3) A request under sub-paragraph (2) must –
 - (a) be given in writing before 1 July 2023;
 - (b) state that if P does not renew consent before 1 July 2024, the embryo will be removed from storage and disposed of.”;
 - (b) in sub-paragraph (5)(b), for “the start of the renewal period which relates to that consent period” there were substituted “1 July 2023”;
 - (c) sub-paragraph (7) were omitted;
 - (d) for sub-paragraph (8) there were substituted –
 - “(8) P’s consent to the storage of the embryo is to be taken as having been withdrawn at the beginning of 1 July 2024 if –
 - (a) K has complied with sub-paragraph (2), and
 - (b) P’s consent is not renewed under sub-paragraph (6) before 1 July 2024.

After Schedule 16 - continued

But this is subject to sub-paragraphs (9) and (10).”;

- (e) in sub-paragraphs (9) and (10), references to the end of the renewal period were to 1 July 2024.”

Member’s explanatory statement

Part 1 of this new Schedule makes provision for the maximum period for which gametes and embryos may be stored, for what happens at the end of that period, and for a requirement that consents to storage be renewed periodically. Part 2 contains transitional provision.

314 [Withdrawn]

After Clause 150

BARONESS THORNTON

314ZA Insert the following new Clause—

“Other forms of delegated legislation

No order, scheme, rules, guidance, directions or other documents which have legislative effect may be made or issued by virtue of this Act unless they are made by regulations in accordance with the procedures set out in section 150.”

Clause 152

LORD KAMALL

314A Page 128, line 40, at end insert—

- “(ca) in Part 5, section (*Storage of gametes and embryos*) and Part 2 of Schedule (*Storage of gametes and embryos*) (*storage of gametes and embryos*);”

Member’s explanatory statement

This amendment makes provision for the extent of the new Clause relating to the storage of gametes and embryos and Part 2 of the new Schedule. The extent of Part 1 of the new Schedule is dealt with under Clause 152(5).

Clause 153

BARONESS THORNTON

315 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.

Clause 153 - continued

- (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.

LORD KAMALL

- 315A** Page 129, line 8, at end insert –

“(2A) Section (*Storage of gametes and embryos*) and Schedule (*Storage of gametes and embryos*) (storage of gametes and embryos) come into force on 1 July 2022.”

Member’s explanatory statement

This amendment provides for the new Clause and Schedule relating to the storage of gametes and embryos to come into force on 1 July 2022.

- 316** Page 129, line 10, leave out “on 1 January 2023” and insert “at the end of the period of two months beginning with the day on which this Act is passed”

Member’s explanatory statement

This amendment provides for the provisions relating to advertising to come into force two months after Royal Assent, instead of on 1 January 2023. The prohibitions contained in them will not apply until 1 January 2023 as a result of other amendments but this amendment enables regulations etc to be in place beforehand.

LORD VAIZEY OF DIDCOT
LORD MOYLAN
LORD BLACK OF BRENTWOOD
LORD NASEBY

- 317** Page 129, line 10, leave out “on 1 January 2023” and insert “no earlier than one year following the publication of final guidance by OFCOM or other appropriate regulatory authority”

Member’s explanatory statement

This amendment and other amendments to Schedule 17 in the name of Lord Vaizey of Didcot extend the implementation period in consideration of the fact that advertising campaigns can take up to a year or more from initial conception through to production, media planning and media buying and publication/broadcast.

LORD WARNER
BARONESS WALMSLEY

- 318** Page 129, line 12, at end insert –

“(4A) But Parts 1 and 3 may not come into force until the National Audit Office has provided to the Public Accounts Committee of the House of Commons a document certifying that in England –

- (a) the number of NHS patients requiring hospital treatment is less than one million and has been reducing for at least 3 successive months, and

Clause 153 - continued

- (b) the NHS has the financial and staff capacity to provide for coronavirus treatment and vaccination and any NHS reorganisation.
- (4B) Any integrated care board operating on the day that this Act was passed may continue to do so.”

BARONESS YOUNG OF OLD SCONE
LORD PATEL

319★ Page 129, line 14, at end insert –

“(5A) Section 97(2) expires at the end of the period of 18 months beginning with the day on which section 95 comes into force.”

Member’s explanatory statement

This amendment will enable the Secretary of State’s powers to direct the HSSIB to carry out an investigation to be limited to a transitional period to facilitate the transfer of responsibilities from the existing regimes to the HSSIB.

Health and Care Bill

FIFTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

20 January 2022
