

# Health and Care Bill

---

SEVENTH  
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*The previous Instruction for the marshalling of amendments was revoked on 18th January 2022.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.

**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,

**After Clause 79 - continued**

- (b) at least one person regulated under the Nursing and Midwifery Order 2001,
  - (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  
BARONESS ALTMANN

**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  
BARONESS MEACHER

**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.”

LORD WARNER

225ZA★ Insert the following new Clause –

**“Regard to the reports of the Office for Health and Care Sustainability**

The Secretary of State, in discharging his or her responsibilities under Part 1 of this Act, must have regard to the reports of the Office for Health and Care Sustainability established under section (*Office for Health and Care Sustainability* ).”

**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**

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 –

**Clause 140 - continued**

- (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.*

LORD LIPSEY

236A Insert the following new Clause—

**“Prescribed amount for social care tariff income from capital**

- (1) In regulation 25(1) of the Care and Support (Charging and Assessment of Resources) Regulations 2014 (S.I. 2014/2672) for “£250” substitute “£1,000”.
- (2) For the avoidance of doubt, this section prevents the Secretary of State from exercising the powers conferred by the Care Act 2014 to prescribe by regulations a different amount.”

**Member's explanatory statement**

*The amendment is intended to reduce the rate at which those on low income lose benefits if they have assets above the means test threshold.*

LORD BETHELL

236B Insert the following new Clause—

**“Secretary of State’s duty to establish a register of care workers**

The Secretary of State must require a regulatory body to establish and maintain a register of persons who provide social care services registered under Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2014 (S.I. 2014/2936).”

**Member's explanatory statement**

*This new Clause would make registration of adult social care workers compulsory in England as is already the case in Scotland, Wales and Northern Ireland. Registration would only apply to those working in positions where their activities were regulated by the CQC. Registration would not require qualification but would provide the basis for opportunities for continuing professional development.*

**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.

**After Clause 141 - continued**

- (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 –

“(ZZZB) 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  
BARONESS BUSCOMBE

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  
LORD VAIZEY OF DIDCOT

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 CLEMENT-JONES

- 248B** Page 235, line 12, leave out from first “by” to end of line 14 and insert “section 465 of the Companies Act 2006 (companies qualifying as medium-sized: general), whose main products include food or drink.”

***Member’s explanatory statement***

*This amendment would bring the definition of “food or drink SME” in line with the definition of an SME in the Companies Act 2006.*

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  
LORD VAIZEY OF DIDCOT

- 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  
LORD VAIZEY OF DIDCOT

- 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 CLEMENT-JONES

- 251A** Page 236, line 10, leave out from first “by” to end of line 12 and insert “section 465 of the Companies Act 2006 (companies qualifying as medium-sized: general), whose main products include food or drink.”

***Member’s explanatory statement***

*This amendment would bring the definition of “food or drink SME” in line with the definition of an SME in the Companies Act 2006.*

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  
LORD VAIZEY OF DIDCOT

- 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.*

LORD CLEMENT-JONES  
BARONESS WALMSLEY

**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"

**Schedule 17 - continued**

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  
LORD VAIZEY OF DIDCOT

- 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 CLEMENT-JONES

- 253C** Page 237, line 30, leave out from first “by” to end of line 32 and insert “section 465 of the Companies Act 2006 (companies qualifying as medium-sized: general), whose main products include food or drink;”

***Member’s explanatory statement***

*This amendment would bring the definition of “food or drink SME” in line with the definition of an SME in the Companies Act 2006.*

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

**Schedule 17 - continued**

- (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  
LORD VAIZEY OF DIDCOT

- 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  
LORD VAIZEY OF DIDCOT

- 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  
BARONESS BUSCOMBE

- 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”

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;”

LORD HOPE OF CRAIGHEAD  
BARONESS MCINTOSH OF PICKERING

- 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;

**Clause 145 - continued**

- (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.”

LORD HUNT OF KINGS HEATH

258A Page 124, line 12, at end insert –

- “(4C) The Secretary of State may only make regulations under subsection (3)(da) after the Secretary of State has consulted –
- (a) NHS Foundation Trusts,
  - (b) NHS Trusts,
  - (c) integrated care boards, and
  - (d) any other persons the Secretary of State deems appropriate.”

**Member’s explanatory statement**

*Regulations on food standards will only be made following consultation with NHS foundation trusts, NHS trusts, integrated care boards and any other persons considered appropriate.*

**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
    - (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** [*Withdrawn*]

**259D** Page 125, line 7, leave out paragraph (a) and insert –

“(a) for subsection (3A) substitute –

“(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 US Government-funded, peer-reviewed studies since 2017.”

**Member's explanatory statement**

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

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.

**After Clause 147 - continued**

- (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.

**After Clause 148 - continued**

- (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
  - (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—

**“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.

**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 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.

**After Clause 148 - continued**

- (2) The consultation must ask for views on a draft statutory scheme (or alternative draft schemes), which may, in particular, make any provision mentioned in subsections (3) to (6).
- (3) The draft scheme or schemes may provide for any amount representing sums charged by any manufacturer or importer to whom the scheme applies, in excess of the limits determined under the scheme, for tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (4) The draft scheme or schemes may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or importer to whom the scheme applies in connection with the manufacture or importation of tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (5) The draft scheme or schemes may provide for any amount payable in accordance with the scheme by any manufacturer or importer to whom the scheme applies to be paid to the Secretary of State within a specified period.
- (6) The draft scheme or schemes may –
  - (a) prohibit any manufacturer or importer to whom the scheme applies from varying, without the approval of the Secretary of State, any price charged by him for the supply of any tobacco product covered by the scheme, and
  - (b) provide for any amount representing any variation in contravention of that prohibition in the sums charged by that person for that product to be paid to the Secretary of State within a specified period.
- (7) The Secretary of State must lay the report before Parliament and a Minister of the Crown must arrange to make a statement to each House of Parliament setting out in detail any steps which will be taken to implement the findings of the report.”

***Member’s explanatory statement***

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

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.

**After Clause 148 - continued**

- (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.
- (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—

**After Clause 148 - continued**

- (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision, and
  - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (8) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to –
- (a) require a specific manufacturer or importer to provide information to him or her,
  - (b) limit, in respect of any specific manufacturer or importer, any price or profit,
  - (c) refuse to give his or her approval to a price increase made by a specific manufacturer or importer, or
  - (d) require a specific manufacturer or importer to pay any amount (including an amount by way of penalty) to him or her,
- and in this subsection “specific” means specified in the decision.
- (9) A requirement or prohibition, or a limit, under section (*Consultation on statutory scheme*), may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (10) Subsection (9) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State under section (*Consultation on statutory scheme*) or this section.
- (11) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (3).”

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.

**After Clause 148 - continued**

- (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.

**After Clause 148 - continued**

- (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.
- (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.

**After Clause 148 - continued**

- (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;
  - (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).



**After Clause 148 - continued**

- (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;
  - (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

**After Clause 148 - continued**

- (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.”
- (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  
LORD SCRIVEN

285 Insert the following new Clause—

**“Office for Health and Care Sustainability**

- (1) There is to be a body corporate, independent of the Government, called the Office for 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.

**After Clause 148 - continued**

- (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,
  - (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.

**After Clause 148 - continued**

- (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.
- (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 –

**After Clause 148 - continued**

- (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.
- (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;

**After Clause 148 - continued**

“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—
- (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.

**After Clause 148 - continued**

- (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.
- (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—



**After Clause 148 - continued**

- (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
  - (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 –

**After Clause 148 - continued**

“(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.”

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.”

**After Clause 148 - continued**

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.
- (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.”

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.”

*After Clause 148 - continued*

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;
  - (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.”

*After Clause 148 - continued*

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.
- (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).”

*After Clause 148 - continued*

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.”

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**

**After Clause 148 - continued**

- (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).
- (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.



**After Clause 148 - continued**

- (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,
  - (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.*

**Schedule 13**

LORD HUNT OF KINGS HEATH

308A Page 225, line 9, leave out paragraph 14 and insert –

“14 (1) The HSSIB’s funding will be set on a three-year basis.

- (2) The Secretary of State may make payments to the HSSIB, including in addition to its agreed three-year funding, out of money provided by Parliament of such amounts as the Secretary of State considers appropriate following consultation with the HSSIB.”

***Member’s explanatory statement***

*This amendment is intended to provide the HSSIB with financial stability over a three-year period in order to enhance its independence.*

**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 99**LORD 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.*

LORD HUNT OF KINGS HEATH

**310B★** Page 96, line 40, leave out from beginning to end of line 19 on page 97

**Member's explanatory statement**

*This amendment would remove the power for the Secretary of State to create new exceptions to the prohibition on disclosing information held by HSSIB in relation to an investigation.*

**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  
LORD HUNT OF KINGS HEATH

**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 115

#### LORD HUNT OF KINGS HEATH

**312AA** Page 101, line 15, at end insert –

- “(c) must specify an end date;
- (d) may be extended for a further defined period.”

***Member’s explanatory statement***

*This amendment will avoid a permanent assumption of direction of HSSIB by the Secretary of State.*

**312AB** Page 101, line 15, at end insert –

- “(7) The Secretary of State must set out in writing the reasons why the HSSIB is considered to be failing or to have failed in the exercise of any of its functions, and how the failure is significant.
- (8) The HSSIB must set out its response to the Secretary of State's statement under section (7) within seven days of receipt.”

***Member’s explanatory statement***

*This amendment is intended to provide transparency and robustness in the reasons why the Secretary of State considers it necessary to assume direction of an independent body.*

### Before Clause 81

#### LORD KAMALL

**312B** Insert the following new Clause –

**“Information about payments etc to persons in the health care sector**

- (1) The Secretary of State may by regulations require manufacturers or commercial suppliers of health care products, or connected persons, to –
  - (a) publish information about payments or other benefits provided by them to relevant persons, or
  - (b) provide such information to the Secretary of State.
- (2) The regulations may make further provision about when and how the information is to be published or provided.
- (3) The information may, in particular, include information about –
  - (a) a payment or other benefit,
  - (b) the person who provided it, or
  - (c) the person who received it.
- (4) The regulations may make provision permitting or requiring the further sharing, publication or use of the information.
- (5) The regulations may impose requirements on manufacturers or commercial suppliers of health care products, or connected persons, about the retention of information relating to payments or other benefits provided by them to relevant persons.
- (6) The regulations may –

**Before Clause 81 - continued**

- (a) authorise the Secretary of State to designate as a “relevant scheme” any scheme under which information about payments or other benefits to relevant persons is collected or published by a person other than the Secretary of State, if the Secretary of State considers that the provision of information under the scheme would render compliance with some or all of the requirements imposed by the regulations unnecessary;
  - (b) create exceptions from requirements to publish or provide information imposed by virtue of subsection (1) where information is provided under a relevant scheme;
  - (c) if such exceptions are created –
    - (i) require a person who holds information mentioned in subsection (1) in connection with the operation of a relevant scheme to provide the information to the Secretary of State;
    - (ii) permit or require the Secretary of State to publish the information.
- (7) The regulations may impose requirements on a person mentioned in subsection (6)(c)(i) about the retention of information mentioned there.
- (8) The provision for exceptions that may be made by the regulations includes provision authorising the Secretary of State to grant an exception from a requirement imposed by the regulations in a particular case, on grounds specified in the regulations.
- (9) The regulations may provide that the disclosure of information under the regulations does not breach –
- (a) an obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of the information (however imposed), other than a restriction imposed by the data protection legislation.
- (10) Provision made by the regulations may, in particular, be framed by reference to manufacturers or commercial suppliers with a specified connection to the United Kingdom or a part of it.
- (11) In this section –
- (a) “connected person”, in relation to a manufacturer or commercial supplier, means a person who has a connection, of a description specified in regulations made by the Secretary of State, with the manufacturer or commercial supplier;
  - (b) “relevant person” means –
    - (i) a person who provides health care in the United Kingdom or a part of it, whether or not under arrangements made by another person, or
    - (ii) another person who carries on activities connected with health care provided in the United Kingdom or a part of it and is of a description specified in regulations made by the Secretary of State.
- (12) In this section –

**Before Clause 81 - continued**

“commercial supplier”, in relation to a health care product, means a person who supplies the product otherwise than in the course of providing health care;

“data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018;

“health care” means all forms of health care provided for individuals, whether relating to physical or mental health;

“health care product” means a medicine, medical device or other product which is supplied or prescribed in the course of the provision of health care;

“manufacturer”, in relation to a health care product, means a person who manufactures or assembles the product;

“payments or other benefits” includes any payment or other benefit –

- (a) wherever it is provided,
- (b) whether or not it is of a financial nature,
- (c) whether it is provided under a contract or otherwise, and
- (d) whether it is provided directly or through a third party.”

***Member’s explanatory statement***

*This New Clause would enable regulations to require the reporting and publication of information about payments and other benefits provided to persons in the health care sector by manufacturers and suppliers of health care products.*

**312C** Insert the following new Clause –

**“Regulations under section (*Information about payments etc to persons in the health care sector*): enforcement**

- (1) Regulations under section (*Information about payments etc to persons in the health care sector*)(1) may make provision for the enforcement of requirements imposed by the regulations, including provision conferring on the Secretary of State the power to impose a financial penalty on a person who, without reasonable excuse –
  - (a) fails to comply with such a requirement, or
  - (b) provides information in response to such a requirement that is false or misleading to a material extent.
- (2) The amount of the financial penalty is to be specified in, or determined in accordance with, the regulations.
- (3) Regulations by virtue of subsection (1) must include provision –
  - (a) requiring the Secretary of State, before imposing a financial penalty on a person, to give the person written notice (a “notice of intent”) of the proposed financial penalty;
  - (b) ensuring that the person is given an opportunity to make representations about the proposed financial penalty;
  - (c) requiring the Secretary of State, after the period for making representations, to decide whether to impose the financial penalty;



**Before Clause 81 - continued**

- (d) requiring the Secretary of State, if the Secretary of State decides to impose the financial penalty, to give the person notice in writing (a “final notice”) imposing the penalty;
  - (e) enabling a person on whom a financial penalty is imposed to appeal to a court or tribunal in accordance with the regulations;
  - (f) as to the powers of the court or tribunal on such an appeal.
- (4) The provision that may be made by the regulations by virtue of subsection (1) includes provision –
- (a) enabling a notice of intent or final notice to be withdrawn or amended;
  - (b) requiring the Secretary of State to withdraw a final notice in circumstances specified in the regulations;
  - (c) for a financial penalty to be increased by an amount specified in or determined in accordance with the regulations in the event of late payment;
  - (d) as to how financial penalties are recoverable.”

***Member’s explanatory statement***

*This New Clause would enable provision to be made for the enforcement of requirements relating to information about payments etc to persons in the health care sector, including through the imposition of civil penalties.*

**312D** Insert the following new Clause –

**“Regulations under section (*Information about payments etc to persons in the health care sector*): consent**

- “(1) Before making regulations under section (*Information about payments etc to persons in the health care sector*), the Secretary of State must –
- (a) obtain the consent of the Scottish Ministers in relation to any provision which –
    - (i) would be within the legislative competence of the Scottish Parliament, if contained in an Act of that Parliament, and
    - (ii) is not merely incidental to, or consequential on, provision which would be outside that legislative competence;
  - (b) obtain the consent of the Welsh Ministers in relation to any provision which –
    - (i) would be within the legislative competence of Senedd Cymru, if contained in an Act of the Senedd, and
    - (ii) is not merely incidental to, or consequential on, provision which would be outside that legislative competence;
  - (c) obtain the consent of the Department of Health in Northern Ireland in relation to any provision which –
    - (i) would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and
    - (ii) is not merely incidental to, or consequential on, provision which would be outside that legislative competence.
- (2) Consent is not required under subsection (1)(c) in relation to any provision if –

**Before Clause 81 - continued**

- (a) a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and
- (b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act)."

***Member's explanatory statement***

*This New Clause requires the Secretary of State to obtain consent of the Scottish Ministers, the Welsh Ministers or the Department of Health in Northern Ireland (as appropriate) before making provision within devolved legislative competence in regulations relating to information about payments etc to persons in the health care sector.*

**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,
  - (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.”;

**After Clause 81 - continued**

- (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
- (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.*

LORD KAMALL

- 306AA** Page 80, line 40, at end insert –  
 “(b) provide for powers or duties conferred on the Scottish Ministers to be treated for the purposes of section 2 of the National Health Service (Scotland) Act 1978 as functions relating to the health service (within the meaning of that Act).”

***Member’s explanatory statement***

*This amendment enables the Scottish Ministers to delegate functions conferred on them under medicine information systems regulations to certain health bodies in Scotland.*

BARONESS MCINTOSH OF PICKERING

- 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**

- (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;

**Clause 87 - continued**

- (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  
 LORD WARNER

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.*

LORD KAMALL

227A Page 83, line 10, at end insert –

“Special Health Authority” means a Special Health Authority established under section 28 of the National Health Service Act 2006.”

**Member's explanatory statement**

*This amendment makes it clearer that the powers in Part 3 of the Bill apply only in relation to England-only and cross-border Special Health Authorities (and not Wales-only Special Health Authorities).*

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**

LORD KAMALL

231A Page 87, line 4, leave out paragraphs (c) to (e)

**Member's explanatory statement**

*This amendment removes the Scottish Ministers, a Northern Ireland department and the Welsh Ministers from the list of persons to whom property etc can be transferred under Clause 92.*

**231B** Page 87, line 9, at end insert “established under section 25 of the National Health Service Act 2006”

**Member's explanatory statement**

*This amendment removes Welsh NHS trusts from the list of persons to whom property etc can be transferred under 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

## LORD KAMALL

**231C** Page 88, line 2, leave out subsection (1) and insert –

- “(1) Before making regulations under section 89 or 90, the Secretary of State must –
- (a) obtain the consent of the Scottish Ministers in relation to any provision –
    - (i) which would be within the legislative competence of the Scottish Parliament, if contained in an Act of that Parliament, and is not merely incidental to, or consequential on, provision which would be outside that legislative competence, or
    - (ii) which modifies the functions of the Scottish Ministers;
  - (b) obtain the consent of the Welsh Ministers in relation to any provision –

**Clause 94 - continued**

- (i) which would be within the legislative competence of Senedd Cymru, if contained in an Act of the Senedd, and is not merely incidental to, or consequential on, provision which would be outside that legislative competence, or
- (ii) which modifies the functions of the Welsh Ministers;
- (c) obtain the consent of a Northern Ireland department in relation to any provision—
  - (i) which would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and is not merely incidental to, or consequential on, provision which would be outside that legislative competence, or
  - (ii) which modifies the functions of a Northern Ireland department.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to obtain consent of, rather than consulting with, the Scottish Ministers, the Welsh Ministers or a Northern Ireland department (as appropriate) before making provision within devolved legislative or executive competence in regulations under Clause 89 or 90.*

- 231D** Page 88, line 26, leave out “Consultation is not required under subsection (1)(d)(i)” and insert “Consent is not required under subsection (1)(c)(i)”

***Member’s explanatory statement***

*This amendment is consequential on the replacement of consultation obligations in Northern Ireland with consent obligations in relation to Northern Ireland.*

- 231E** Page 88, line 32, at end insert —
- “(2A) Before making regulations under section 89 or 90, the Secretary of State must consult the following about a draft of the regulations—
- (a) any body to which the regulations relate, and
  - (b) such other persons as the Secretary of State considers appropriate.”

***Member’s explanatory statement***

*This amendment is consequential on the amendment inserting consent requirements into Clause 94. It moves to a different place the duty on the Secretary of State to consult bodies that are not subject to the consent requirements.*

- 231F** Page 88, line 33, leave out “subsection (1)” and insert “this section”

***Member’s explanatory statement***

*This amendment is consequential on the other amendments which re-structure the consultation obligations in Clause 94.*

- 231G** Page 88, line 37, after “whether” insert “consent is obtained or”

***Member’s explanatory statement***

*This amendment provides for consent (under the new requirements being inserted into Clause 94) to be capable of being provided before commencement of the Clause.*

## 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.

**After Clause 133**

LORD KAMALL  
BARONESS SUGG  
LORD PATEL

**231H** Insert the following new Clause—

## “CHAPTER 2

## HYMENOPLASTY OFFENCES

*Hymenoplasty offences: England and Wales*

**Offence of carrying out hymenoplasty: England and Wales**

- (1) It is an offence under the law of England and Wales for a person to carry out hymenoplasty.
- (2) “Hymenoplasty” means the reconstruction of the hymen (with or without consent).
- (3) An offence is committed under subsection (1) only if the person—
  - (a) is in England and Wales, or
  - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in England and Wales.
- (4) “United Kingdom national” means an individual who is—
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.”

**Member's explanatory statement**

This new clause creates an offence under the law of England and Wales of carrying out hymenoplasty.

**231J** Insert the following new Clause—

**“Offence of offering to carry out hymenoplasty: England and Wales**

- (1) It is an offence under the law of England and Wales—
  - (a) for a person in England and Wales to offer to carry out hymenoplasty in the United Kingdom or hymenoplasty that has a sufficient jurisdictional connection, or

**After Clause 133 - continued**

- (b) for a person anywhere to offer to carry out hymenoplasty if the person is a United Kingdom national or habitually resident in England and Wales.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
  - (a) a United Kingdom national, or
  - (b) habitually resident in the United Kingdom.
- (3) In this section—
  - “United Kingdom national” has the meaning given by section (*Offence of carrying out hymenoplasty: England and Wales*)(4);
  - “hymenoplasty” has the meaning given by section (*Offence of carrying out hymenoplasty: England and Wales*)(2).”

**Member’s explanatory statement**

*This new clause creates an offence under the law of England and Wales of offering to carry out hymenoplasty.*

**231K** Insert the following new Clause—

**“Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales**

- (1) It is an offence under the law of England and Wales for a person who is in England and Wales, or for a person who is outside England and Wales but who is a United Kingdom national or habitually resident in England and Wales, to aid, abet, counsel or procure the carrying out of hymenoplasty that has a sufficient jurisdictional connection.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
  - (a) in the United Kingdom,
  - (b) a United Kingdom national, or
  - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section (*Offence of carrying out hymenoplasty: England and Wales*) of any rule of law relating to aiding, abetting, counselling or procuring.
- (4) In this section—
  - “United Kingdom national” has the meaning given by section (*Offence of carrying out hymenoplasty: England and Wales*)(4);
  - “hymenoplasty” has the meaning given by section (*Offence of carrying out hymenoplasty: England and Wales*)(2).”

**Member’s explanatory statement**

*This new Clause creates an offence of aiding, abetting, counselling or procuring a person to carry out hymenoplasty in circumstances where the hymenoplasty itself might not be an offence under the law of England and Wales (depending on the location or status of the person carrying out the hymenoplasty).*

**231L** Insert the following new Clause—

**“Hymenoplasty offences in England and Wales: penalties**

- (1) A person who commits an offence under section (*Offence of carrying out hymenoplasty: England and Wales*), (*Offence of offering to carry out hymenoplasty: England and Wales*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales*), is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) In subsection (1)(a) “the maximum summary term for either-way offences” means—
  - (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) in relation to an offence committed after that time, 12 months.”

***Member’s explanatory statement***

*This new Clause sets out the penalties for the new offences under the law of England and Wales relating to hymenoplasty.*

**231M** Insert the following new Clause—

*“Hymenoplasty offences: Scotland*

**Offence of carrying out hymenoplasty: Scotland**

- (1) It is an offence under the law of Scotland for a person to carry out hymenoplasty.
- (2) “Hymenoplasty” means the reconstruction of the hymen (with or without consent).
- (3) An offence is committed under subsection (1) only if the person—
  - (a) is in Scotland, or
  - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Scotland.
- (4) “United Kingdom national” means an individual who is—
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.”

***Member’s explanatory statement***

*This new Clause creates an offence under the law of Scotland of carrying out hymenoplasty.*

**231N** Insert the following new Clause—

**“Offence of offering to carry out hymenoplasty: Scotland**

- (1) It is an offence under the law of Scotland—

**After Clause 133 - continued**

- (a) for a person in Scotland to offer to carry out hymenoplasty in the United Kingdom or hymenoplasty that has a sufficient jurisdictional connection, or
  - (b) for a person anywhere to offer to carry out hymenoplasty if the person is a United Kingdom national or habitually resident in Scotland.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is –
- (a) a United Kingdom national, or
  - (b) habitually resident in the United Kingdom.
- (3) In this section –
- “United Kingdom national” has the meaning given by section (*Offence of carrying out hymenoplasty: Scotland*)(4);
  - “hymenoplasty” has the meaning given by section (*Offence of carrying out hymenoplasty: Scotland*)(2).”

**Member’s explanatory statement**

*This new Clause creates an offence under the law of Scotland of offering to carry out hymenoplasty.*

**231P**

Insert the following new Clause –

**“Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland**

- (1) It is an offence under the law of Scotland for a person who is in Scotland, or for a person who is outside Scotland but who is a United Kingdom national or habitually resident in Scotland, to aid, abet, counsel, procure or incite the carrying out of hymenoplasty that has a sufficient jurisdictional connection.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is –
  - (a) in the United Kingdom,
  - (b) a United Kingdom national, or
  - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section (*Offence of carrying out hymenoplasty: Scotland*) of any rule of law relating to aiding, abetting, counselling, procuring or inciting.
- (4) In this section –
  - “United Kingdom national” has the meaning given by section (*Offence of carrying out hymenoplasty: Scotland*)(4);
  - “hymenoplasty” has the meaning given by section (*Offence of carrying out hymenoplasty: Scotland*)(2).”

**Member’s explanatory statement**

*This new Clause creates an offence of aiding, abetting, counselling, procuring or inciting a person to carry out hymenoplasty in circumstances where the hymenoplasty itself might not be an offence under the law of Scotland (depending on the location or status of the person carrying out the hymenoplasty).*



**231Q** Insert the following new Clause—

**“Hymenoplasty offences in Scotland: penalties and supplementary**

- (1) A person who commits an offence under section (*Offence of carrying out hymenoplasty: Scotland*), (*Offence of offering to carry out hymenoplasty: Scotland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*), is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) Where a person outside Scotland commits an offence under section (*Offence of carrying out hymenoplasty: Scotland*), (*Offence of offering to carry out hymenoplasty: Scotland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*) the person may be prosecuted, tried and punished for the offence—
  - (a) in a sheriff court district in which the person is apprehended or in custody, or
  - (b) in a sheriff court district determined by the Lord Advocate,
 as if the offence had been committed in that district.
- (3) Where subsection (2) applies, the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district.
- (4) In this section “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation).”

***Member’s explanatory statement***

*This new Clause sets out the penalties for the new offences under the law of Scotland relating to hymenoplasty.*

**231R** Insert the following new Clause—

*Hymenoplasty offences: Northern Ireland*

**Offence of carrying out hymenoplasty: Northern Ireland**

- (1) It is an offence under the law of Northern Ireland for a person to carry out hymenoplasty.
- (2) “Hymenoplasty” means the reconstruction of the hymen (with or without consent).
- (3) An offence is committed under subsection (1) only if the person—
  - (a) is in Northern Ireland, or
  - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Northern Ireland.
- (4) “United Kingdom national” means an individual who is—
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.”

**Member's explanatory statement**

*This new Clause creates an offence under the law of Northern Ireland of carrying out hymenoplasty.*

**231S** Insert the following new Clause –

**“Offence of offering to carry out hymenoplasty: Northern Ireland**

- (1) It is an offence under the law of Northern Ireland –
  - (a) for a person in Northern Ireland to offer to carry out hymenoplasty in the United Kingdom or hymenoplasty that has a sufficient jurisdictional connection, or
  - (b) for a person anywhere to offer to carry out hymenoplasty if the person is a United Kingdom national or habitually resident in Northern Ireland.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is –
  - (a) a United Kingdom national, or
  - (b) habitually resident in the United Kingdom.
- (3) In this section –
 

“United Kingdom national” has the meaning given by section (*Offence of carrying out hymenoplasty: Northern Ireland*)(4);

“hymenoplasty” has the meaning given by section (*Offence of carrying out hymenoplasty: Northern Ireland*)(2).”

**Member's explanatory statement**

*This new Clause creates an offence under the law of Northern Ireland of offering to carry out hymenoplasty.*

**231T** Insert the following new Clause –

**“Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland**

- (1) It is an offence under the law of Northern Ireland for a person who is in Northern Ireland, or for a person who is outside Northern Ireland but who is a United Kingdom national or habitually resident in Northern Ireland, to aid, abet, counsel or procure the carrying out of hymenoplasty that has a sufficient jurisdictional connection.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is –
  - (a) in the United Kingdom,
  - (b) a United Kingdom national, or
  - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section (*Offence of carrying out hymenoplasty: Northern Ireland*) of any rule of law relating to aiding, abetting, counselling or procuring.
- (4) In this section –
 

“United Kingdom national” has the meaning given by section (*Offence of carrying out hymenoplasty: Northern Ireland*)(4);

**After Clause 133 - continued**

“hymenoplasty” has the meaning given by section (*Offence of carrying out hymenoplasty: Northern Ireland*)(2).”

**Member’s explanatory statement**

*This new Clause creates an offence of aiding, abetting, counselling or procuring a person to carry out hymenoplasty in circumstances where the hymenoplasty itself might not be an offence under the law of Northern Ireland (depending on the location or status of the person carrying out the hymenoplasty).*

**231U** Insert the following new Clause –

**“Hymenoplasty offences in Northern Ireland: penalties**

A person who commits an offence under section (*Offence of carrying out hymenoplasty: Northern Ireland*), (*Offence of offering to carry out hymenoplasty: Northern Ireland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland*), is liable –

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).”

**Member’s explanatory statement**

*This new Clause sets out the penalties for the new offences under the law of Northern Ireland relating to hymenoplasty.*

**313** [*Withdrawn*]

**Schedule 16****LORD KAMALL**

**313ZA** Page 233, line 2, leave out “(123 or 124” and insert “123, 124, (*Offence of carrying out hymenoplasty: England and Wales*), (*Offence of offering to carry out hymenoplasty: England and Wales*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales*)”

**Member’s explanatory statement**

*This amendment adds the new England and Wales offences relating to hymenoplasty to section 65A of the Police and Criminal Evidence Act 1984 (qualifying offences for the purposes of Part 5 of that Act).*

**313ZB** Page 233, line 3, after “virginity testing” insert “and hymenoplasty”

**Member’s explanatory statement**

*This amendment is consequential on the other amendment to paragraph 1 of Schedule 16 that appears in the Minister’s name.*

**313ZC** Page 233, line 11, leave out “or 132” and insert “, 132, (*Offence of carrying out hymenoplasty: Northern Ireland*), (*Offence of offering to carry out hymenoplasty: Northern Ireland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland*)”

**Member's explanatory statement**

*This amendment adds the new Northern Ireland offences relating to hymenoplasty to Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (qualifying offences for the purposes of Part 6 of that Order).*

**313ZD** Page 233, line 13, after “virginity testing” insert “and hymenoplasty”

**Member's explanatory statement**

*This amendment is consequential on the other amendment to paragraph 2 of Schedule 16 that appears in the Minister's name.*

**313ZE** Page 233, line 23, at end insert –

- “(d) section (*Offence of carrying out hymenoplasty: England and Wales*) (carrying out hymenoplasty);
- (e) section (*Offence of offering to carry out hymenoplasty: England and Wales*) (offering to carry out hymenoplasty);
- (f) section (*Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales*) (aiding or abetting etc a person to carry out hymenoplasty).”

**Member's explanatory statement**

*This amendment adds the new England and Wales offences relating to hymenoplasty to Schedule 7A to the Criminal Justice and Public Order Act 1994 (offences for which cross-border powers of arrest available).*

**313ZF** Page 233, line 30, at end insert –

- “(d) section (*Offence of carrying out hymenoplasty: Scotland*) (carrying out hymenoplasty);
- (e) section (*Offence of offering to carry out hymenoplasty: Scotland*) (offering to carry out hymenoplasty);
- (f) section (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*) (aiding or abetting etc a person to carry out hymenoplasty).”

**Member's explanatory statement**

*This amendment adds the new Scottish offences relating to hymenoplasty to Schedule 7A to the Criminal Justice and Public Order Act 1994 (offences for which cross-border powers of arrest available).*

**313ZG** Page 233, line 37, at end insert –

- “(d) section (*Offence of carrying out hymenoplasty: Northern Ireland*) (carrying out hymenoplasty);
- (e) section (*Offence of offering to carry out hymenoplasty: Northern Ireland*) (offering to carry out hymenoplasty);
- (f) section (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland*) (aiding or abetting etc a person to carry out hymenoplasty).”

**Member's explanatory statement**

*This amendment adds the new Northern Ireland offences relating to hymenoplasty to Schedule 7A to the Criminal Justice and Public Order Act 1994 (offences for which cross-border powers of arrest available).*

**313ZH** Page 233, line 37, at end insert –

*“Criminal Procedure (Scotland) Act 1995*

3A The Criminal Procedure (Scotland) Act 1995 is amended as follows.

3B In section 19A (samples etc. from persons convicted of sexual or violent offences), in the definition of “relevant violent offence” in subsection (6), in paragraph (h), after sub-paragraph (v) insert –

“(vi) section 126, 127, 128, (*Offence of carrying out hymenoplasty: Scotland*), (*Offence of offering to carry out hymenoplasty: Scotland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*) of the Health and Care Act 2022 (offences relating to virginity testing and hymenoplasty).”

3C In section 271BZA (child witnesses in certain solemn cases: special measures), in subsection (2), after paragraph (f) insert –

“(fa) an offence under section 126, 127, 128, (*Offence of carrying out hymenoplasty: Scotland*), (*Offence of offering to carry out hymenoplasty: Scotland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*) of the Health and Care Act 2022 (offences relating to virginity testing and hymenoplasty);”.

**Member's explanatory statement**

*This amendment adds the new Scottish offences relating to virginity testing and hymenoplasty to certain provisions of the Criminal Procedure (Scotland) Act 1995.*

**313ZJ** Page 233, line 42, leave out “or 124” and insert “, 124, (*Offence of carrying out hymenoplasty: England and Wales*), (*Offence of offering to carry out hymenoplasty: England and Wales*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales*)”

**Member's explanatory statement**

*This amendment adds the new England and Wales offences relating to hymenoplasty to section 51C of the Crime and Disorder Act 1998 (notices in certain cases involving children).*

**313ZK** Page 233, line 43, after “virginity testing” insert “and hymenoplasty”

**Member's explanatory statement**

*This amendment is consequential on the other amendment to paragraph 4 of Schedule 16 that appears in the Minister's name.*

**313ZL** Page 234, line 2, at end insert –

*“Protection of Vulnerable Groups (Scotland) Act 2007 (asp 2007)*

- 4A Pending the commencement of its repeal by section 81(2)(d) of the Disclosure (Scotland) Act 2020, paragraph 2 of Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007 (relevant offences) has effect as if it included a reference to an individual who commits an offence under section 126, 127, 128, (*Offence of carrying out hymenoplasty: Scotland*), (*Offence of offering to carry out hymenoplasty: Scotland*) or (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*) of this Act (offences relating to virginity testing and hymenoplasty).”

***Member’s explanatory statement***

*This amendment means that the new Scottish offences relating to virginity testing and hymenoplasty will be treated as relevant offences within paragraph 2 of Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007 pending the commencement of the repeal of that Schedule.*

**313ZM** Page 234, line 12, at end insert –

- “(d) section (*Offence of carrying out hymenoplasty: England and Wales*) (carrying out hymenoplasty);  
 (e) section (*Offence of offering to carry out hymenoplasty: England and Wales*) (offering to carry out hymenoplasty);  
 (f) section (*Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales*) (aiding or abetting etc a person to carry out hymenoplasty).”

***Member’s explanatory statement***

*This amendment adds the new England and Wales offences relating to hymenoplasty to Schedule 4 to the Modern Slavery Act 2015 (offences to which defence in section 45 does not apply).*

**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

*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 –

**After Schedule 16 - continued**

- (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—
- “(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,”;

**After Schedule 16 - continued**

- (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 –
  - (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.
- (9) P renews consent by informing K in writing that P consents to the storage of the gametes.
- (10) 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.



**After Schedule 16 - continued**

- (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
  - (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

**After Schedule 16 - continued**

- (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.
- (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—

**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 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
  - (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

**After Schedule 16 - continued**

- (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 –
  - “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 –

**After Schedule 16 - continued**

“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.

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.

**After Schedule 16 - continued**

- (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 or embryo is to be regarded as having been first placed in storage.
- (3) Where notice is given under sub-paragraph (2), the gametes 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.
- (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*

**After Schedule 16 - continued**

- 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.
- (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;

**After Schedule 16 - continued**

- (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.
 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.*



### Clause 150

LORD KAMALL

**313B** Page 128, line 13, at end insert –

“(1A) A power to make regulations under section (*Information about payments etc to persons in the health care sector*), 89 or 90 includes power to make different provision for England, Wales, Scotland or Northern Ireland.”

***Member’s explanatory statement***

*This amendment provides for regulations under Part 3 of the Bill, and regulations relating to the reporting and publication of information about payments and other benefits provided to persons in the health care sector, to be able to make different provision for different parts of the UK.*

**313C** Page 128, line 18, at end insert –

“(aa) regulations under section (*Information about payments etc to persons in the health care sector*);”

***Member’s explanatory statement***

*This amendment provides for regulations relating to the reporting and publication of information about payments and other benefits provided to persons in the health care sector to be subject to affirmative procedure.*

**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

**314ZB** Page 128, line 37, at end insert –

“(aa) in Part 2, sections (*Information about payments etc to persons in the health care sector*), (*Regulations under section (Information about payments etc to persons in the health care sector): enforcement*) and (*Regulations under section (Information about payments etc to persons in the health care sector): consent*) (*information about payments etc to persons in the health care sector*);”

***Member’s explanatory statement***

*This amendment provides for the powers relating to the reporting and publication of information about payments and other benefits provided to persons in the health care sector to extend to the whole of the United Kingdom.*

**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).*

**314B** Page 129, line 1, leave out subsections (3) and (4) and insert –

“(3) The following extend to Scotland only –

- (a) sections 126 to 129 (offences relating to virginity testing);
- (b) sections (*Offence of carrying out hymenoplasty: Scotland*), (*Offence of offering to carry out hymenoplasty: Scotland*), (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland*) and (*Hymenoplasty offences in Scotland: penalties*) (offences relating to hymenoplasty).

(4) The following extend to Northern Ireland only –

- (a) sections 130 to 133 (offences relating to virginity testing);
- (b) sections (*Offence of carrying out hymenoplasty: Northern Ireland*), (*Offence of offering to carry out hymenoplasty: Northern Ireland*), (*Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland*) and (*Hymenoplasty offences in Northern Ireland: penalties*) (offences relating to hymenoplasty).”

***Member’s explanatory statement***

*This amendment amends the extent clause in consequence of the new Clauses relating to hymenoplasty.*

**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.

(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
- (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.”

**Clause 153 - continued**

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

---

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

---

*27 January 2022*

---