

Health and Care Bill

NINTH
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The previous Instruction for the marshalling of amendments was revoked on 18th January 2022.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 148

BARONESS CUMBERLEGE
BARONESS FINLAY OF LLANDAFF

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.
- (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 –

After Clause 148 - continued

- (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.
- (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.

After Clause 148 - continued

BARONESS FINLAY OF LLANDAFF
 BARONESS HOLLINS
 LORD MOYLAN
 BARONESS MASHAM OF ILTON

287

Insert the following new Clause—

“Dispute resolution in children’s palliative care

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

After Clause 148 - continued

- (5) Nothing in subsection (4) requires, or may be relied upon so as to require, the provision of any specific treatment by a doctor or institution; in particular, nothing in subsection (4) –
- (a) requires the provision of resources for any particular course of treatment; or
 - (b) requires a doctor to provide treatment that the doctor considers likely to be futile or harmful, or otherwise not in the best interests of the child.
- (6) In this section –
- “child” means an individual under the age of 18;
 - “health service hospital” has the meaning given by section 275 of the National Health Service Act 2006 (interpretation);
 - “parent” means a person with parental responsibility for a child within the meaning of the Children Act 1989.
- (7) Nothing in this section affects the law about the appropriate clinical practice to be followed as to –
- (a) having regard to the child’s own views, where they can be expressed; and
 - (b) having regard to the views of anyone interested in the welfare of the child, whether or not a person concerned within the welfare of the child within the meaning of this section.”

BARONESS CUMBERLEGE
LORD HUNT OF KINGS HEATH
BARONESS RITCHIE OF DOWNPATRICK

288

Insert the following new Clause –

“Schemes for those affected by treatment

- (1) Within 6 months of the passing of this Act, the Secretary of State must bring forward proposals to establish separate schemes to meet the cost of providing additional care and support to those who have experienced avoidable harm and are eligible to claim in respect of –
- (a) hormone pregnancy tests (HPTs),
 - (b) sodium valproate, or
 - (c) pelvic mesh.
- (2) The Secretary of State may by regulations provide for the establishment and administration of the schemes.”

Member’s explanatory statement

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

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

289 Insert the following new Clause—

“Hospital rehabilitation accommodation

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

Member’s explanatory statement

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

BARONESS GREENGROSS
 BARONESS BENNETT OF MANOR CASTLE

290 Insert the following new Clause—

“Social prescribing

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

BARONESS GREENGROSS

291 Insert the following new Clause—

“Dementia care plan

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

After Clause 148 - continued

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

After Clause 148 - continued

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

“34DA Scheme for registering cosmetic surgery practitioners

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

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.

After Clause 148 - continued

- (4) The Secretary of State must, within a year of this Act being passed and every year thereafter, publish data on the prescription of Pancreatic Enzyme Replacement Therapy for pancreatic cancer patients.”

BARONESS WALMSLEY

295 Insert the following new Clause –

“Ambulance response times: local reporting

- (1) The Secretary of State must, not later than 31 July 2022, make regulations which require ambulance trusts in England to publish the following information on the internet within two weeks of the end of each month –
- (a) category 1, 2, 3 and 4 ambulance response times for the trust area for the previous month broken down by –
 - (i) integrated care system area, and
 - (ii) postcode, and
 - (b) for all incidents where the relevant response time was missed by a margin set out in the regulations, a detailed explanation of why that target was missed.
- (2) In this section –
- “ambulance trusts” means ambulance trusts whether they are NHS trusts or NHS foundation trusts;
- “category 1, 2, 3, and 4 ambulance response times” has the meaning given in the NHS England Ambulance Response Programme.
- (3) Regulations under this section may make such incidental or transitional provision as the Secretary of State considers appropriate.
- (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

After Clause 148 - continued

- (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.”

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
 BARONESS MASHAM OF ILTON

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.”

BARONESS NICHOLSON OF WINTERBOURNE

LORD BLENCATHRA

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 in the hospital by reference to their natal sex.
- (2) In particular, accommodation 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 sex registered at birth are offered accommodation equal to those who do not identify with a gender different to their sex registered at birth.
- (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.

BARONESS HOLLINS
 BARONESS BULL
 BARONESS MERRON

297L Insert the following new Clause—

“Mandatory training on learning disability and autism

- (1) In regulation 18(2) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936), for sub-paragraph (a) substitute—
 - “(a) receive—
 - (i) such appropriate support, training, professional development, supervision and appraisal as is necessary to enable them to carry out the duties they are employed to perform, and
 - (ii) in particular, specialist training in person on learning disability and autism, appropriate to their role, as set out in the code of practice issued by the Secretary of State under section (*Mandatory training on learning disability and autism*) of the Health and Care Act 2022.”
- (2) With regard to specialist training on learning disability and autism, the Secretary of State must prepare and publish a code of practice (“the code”) containing guidance addressing—
 - (a) the content of mandatory training and its co-production,
 - (b) the appropriate levels of training required across staff roles,
 - (c) the co-delivery of training,
 - (d) the accreditation of training,
 - (e) the procurement of training,
 - (f) the monitoring and evaluation of the impact of training, and
 - (g) the implementation of mandating of training across regulated health and social care providers.
- (3) The code must incorporate—
 - (a) the most recent Learning Disabilities Core Skills Education and Training Framework (or its successor framework, regardless of its name),
 - (b) the most recent Core Capabilities Framework for Supporting Autistic People (or its successor framework, regardless of its name),
 - (c) the autism strategy published under section 1 of the Autism Act 2009, and
 - (d) recent guidance issued in accordance with section 2 of the Autism Act 2009.
- (4) The Secretary of State must seek the participation of and consult such persons and bodies as they consider appropriate—
 - (a) in preparing the code,
 - (b) in incorporating the relevant publications as set out in subsection (3), and
 - (c) in revising it.
- (5) The Secretary of State may not issue the code or any revision unless a draft has been laid before and approved by a resolution of each House of Parliament.

After Clause 148 - continued

- (6) The Secretary of State must review the code every three years and lay their findings before Parliament.
- (7) In this section—
- “appropriate to their role” has the meaning given by the code;
 - “autism” means a spectrum of disorders which start in childhood, the clinical manifestations of which include atypical social communication and social interaction and restricted, repetitive patterns of behaviour;
 - “in person” means training delivered by people in the personal presence of the trainee and not by electronic or digital communication;
 - “learning disability” means a disability which includes a significantly reduced ability to understand new or complex information or to learn new skills, with a reduced ability to cope independently, which started before adulthood, with a lasting effect on development;
 - “specialist training” means training co-produced and co-delivered in person by persons who themselves have a learning disability or autism, or are a family member of someone who has a learning disability or autism, and that is accredited, in conformity with the code.”

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 ETHERTON
BARONESS FINLAY OF LLANDAFF

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).

Schedule 14 - continued

- (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 –
 - (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—
 - (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.

Before Clause 81 - continued

- (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—
- “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;
 - (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 –

Before Clause 81 - continued

- (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—
- (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.”;
 - (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;
- (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 –
 - (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,

After Clause 133 - continued

- (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
 - (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.

After Clause 133 - continued

- (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

After Clause 133 - continued

- (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 –
 - (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

After Clause 133 - continued

- (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);

“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—

(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”.

After Schedule 16 - continued

- 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,”;

(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.

After Schedule 16 - continued

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

After Schedule 16 - continued

- (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
 - (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—

After Schedule 16 - continued

- (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—
- (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.

After Schedule 16 - continued

- (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
 - (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.”

After Schedule 16 - continued

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 –
 “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.

After Schedule 16 - continued

- (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.
- (2) The person may give a notice to each person whose consent to the storage is required under Schedule 3 to the 1990 Act specifying a date on which the gametes are or embryo is to be regarded as having been first placed in storage.
- (3) Where notice is given under sub-paragraph (2), the gametes are or embryo is to be regarded, for all purposes of the 1990 Act and this Part of this Schedule, as having been first placed in storage on the date specified in the notice.

Storage periods specified in pre-commencement storage licences

- 12 (1) For the purposes of section 14(3)(a) of the 1990 Act (as substituted by paragraph 2 of this Schedule), a pre-commencement gamete storage licence under which, on and after the commencement day, gametes are kept in storage is to be regarded as specifying the period of 55 years beginning with the day on which the gametes were first placed in storage.
- (2) For the purposes of section 14(3)(b) of the 1990 Act (as substituted by paragraph 2 of this Schedule), a pre-commencement embryo storage licence under which, on and after the commencement day, an embryo is kept in storage for treatment purposes is to be regarded as specifying for those purposes the period of 55 years beginning with the day on which the embryo was first so kept.

Storage after expiry of pre-commencement consent

- 13 (1) If a pre-commencement consent to the storage of gametes or an embryo expires at any time in the transitional period, the storage of the gametes or embryo for the remainder of that period is not unlawful merely because of that fact.
- (2) In sub-paragraph (1) –
- (a) “pre-commencement consent” means consent given under Schedule 3 to the 1990 Act before the commencement day;
 - (b) the reference to expiry of consent does not include withdrawal.

Storage with no effective consent prior to commencement

After Schedule 16 - continued

- 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

- 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—

After Schedule 16 - continued

- (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;
 - (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 –

After Schedule 16 - continued

“(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).

Clause 153 - continued

- (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.”

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

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

7 February 2022
