

Health and Care Bill

AMENDMENTS

TO BE MOVED

ON REPORT

[Supplementary to the Marshalled List]

Amendment
No.

Schedule 2

LORD YOUNG OF NORWOOD GREEN

10A★

Page 145, line 10, at end insert –

- “(3) The constitution must ensure that the remuneration of the chief executive is set at £150,000 per annum subject to a review of the following key performance indicators (“KPIs”) –
- (a) adoption of best practice,
 - (b) quality of patient care and safety,
 - (c) use of innovation to improve performance, and
 - (d) diversity commitment to ensuring that this is evident in senior management grades.
- (4) The constitution may provide that a bonus is to be awarded if the integrated care board assess that reasonable progress has been made in achieving the KPIs.”

After Clause 155

LORD LANSLEY

144A★

Insert the following new Clause –

“Commencement of sections 15 and 16 of the Care Act 2014

The Secretary of State must make regulations under section 127(1) of the Care Act 2014 (commencement) to ensure that all provisions under sections 15 and 16 of that Act have come into force before 1 April 2023.”

After Schedule 18

LORD KAMALL

153A★

Insert the following new Schedule –

“LICENSING OF COSMETIC PROCEDURES

Introduction

After Schedule 18 - continued

- 1 This Schedule is about the provision that may be made by regulations under section (*Licensing of cosmetic procedures*).

Grant of licence

- 2 The regulations may –
- (a) require a local authority not to grant a licence unless satisfied as to a matter specified in the regulations;
 - (b) require a local authority to have regard, in deciding whether to grant a licence, to a matter specified in the regulations.
- 3 The regulations may make provision requiring a local authority not to grant a premises licence unless the premises have been inspected in accordance with the regulations.

Licence conditions

- 4 (1) The regulations may make provision for the grant of a licence subject to conditions.
- (2) Provision of the kind mentioned in sub-paragraph (1) may –
- (a) enable a local authority to attach conditions to a licence;
 - (b) require a local authority to attach to a licence a condition specified in the regulations.

Duration of licence etc

- 5 (1) The regulations may make provision about the duration, renewal, variation, suspension or revocation of licences.
- (2) The provision that may be made under sub-paragraph (1) includes provision conferring power on a court by which a person is convicted of an offence under the regulations to vary, suspend or revoke a licence.

Reviews and appeals

- 6 The regulations may make provision for –
- (a) the review of decisions under the regulations;
 - (b) appeals against decisions under the regulations.

Offences

- 7 (1) The regulations may create offences in relation to –
- (a) the breach of a prohibition imposed by virtue of section (*Licensing of cosmetic procedures*)(1);
 - (b) the breach of a condition attached to a licence;
 - (c) the provision of false or misleading information to a local authority in connection with anything done under the regulations.
- (2) The regulations must provide for any such offence to be punishable on summary conviction with a fine or a fine not exceeding an amount specified, or determined in accordance with, the regulations.

Financial penalties

- 8 (1) The regulations may confer power on a local authority to impose a financial penalty in relation to –

After Schedule 18 - continued

- (a) the breach of a prohibition imposed by virtue of section (*Licensing of cosmetic procedures*)(1);
 - (b) the breach of a condition attached to a licence.
- (2) The amount of the financial penalty is to be specified in, or determined in accordance with, the regulations.
- (3) If the regulations confer power to impose a financial penalty in respect of conduct for which a criminal offence is created under the regulations, they must provide that a person is not liable to such a penalty in respect of conduct for which the person has been convicted of the offence.
- (4) If the regulations confer power to impose a financial penalty they must include provision—
 - (a) requiring the local authority, 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 local authority, after the period for making representations, to decide whether to impose the financial penalty;
 - (d) requiring the local authority, if it 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.
- (5) The provision that may be made by the regulations by virtue of sub-paragraph (1) includes provision—
 - (a) enabling a notice of intent or final notice to be withdrawn or amended;
 - (b) requiring the local authority 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.

Enforcement

- 9 The regulations may confer on a local authority the function of enforcing the regulations in its area.

Fees

- 10 The regulations may include provision for fees in relation to the carrying out of functions of a local authority under or in connection with the regulations (including the cost of its enforcement functions under the regulations).

Guidance

- 11 The regulations may require a local authority, in carrying out functions under the regulations, to have regard to guidance published by the Secretary of State.

Interpretation

After Schedule 18 - continued

12 (1) In this Schedule –

“grant”, in relation to a licence, includes vary or renew;

“licence” means a personal licence or premises licence;

“personal licence” has the meaning given by section (*Licensing of cosmetic procedures*)(2);

“premises licence” has the meaning given by section (*Licensing of cosmetic procedures*)(2).

(2) Nothing in this Schedule is to be read as limiting the scope of the power to make regulations under section (*Licensing of cosmetic procedures*)."

Member's explanatory statement

This new Schedule sets out some of the things that may be included in regulations establishing a licensing regime relating to non-surgical cosmetic procedures (including provision for the imposition of fees, the creation of offences and financial penalties).

After Clause 164

LORD KAMALL

157A★

Insert the following new Clause –

“Licensing of cosmetic procedures

(1) The Secretary of State may, for the purposes of reducing the risk of harm to the health or safety of members of the public, make regulations –

(a) prohibiting an individual in England from carrying out specified cosmetic procedures in the course of business, unless the person has a personal licence;

(b) prohibiting a person from using or permitting the use of premises in England for the carrying out of specified cosmetic procedures in the course of business, unless the person has a premises licence.

(2) In this section –

“cosmetic procedure” means a procedure, other than a surgical or dental procedure, that is or may be carried out for cosmetic purposes; and the reference to a procedure includes –

(a) the injection of a substance;

(b) the application of a substance that is capable of penetrating into or through the epidermis;

(c) the insertion of needles into the skin;

(d) the placing of threads under the skin;

(e) the application of light, electricity, cold or heat;

“licensed premises” means premises in respect of which a premises licence is in force;

“local authority” means –

(a) a county council in England;

(b) a district council in England;

(c) a London borough council;

(d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

After Clause 164 - continued

- (e) the Common Council of the City of London (in its capacity as a local authority), the Sub-Treasurer of the Inner Temple or the Under Treasurer of the Middle Temple;
 - (f) the Council of the Isles of Scilly;
- “personal licence” means a licence, granted by a specified local authority under the regulations, which authorises an individual to carry out a cosmetic procedure of a description specified in the licence;
- “premises licence” means a licence, granted by a specified local authority under the regulations, which authorises premises to be used for the carrying out of a cosmetic procedure of a description specified in the licence;
- “specified cosmetic procedure” means a cosmetic procedure of a description specified in the regulations;
- “specified local authority” means a local authority of a description specified in the regulations.
- (3) The provision which may be made by regulations under this section by virtue of section 166(1)(a) includes –
 - (a) provision amending Schedule 5 to the Consumer Rights Act 2015 (investigatory powers);
 - (b) provision repealing, revoking or amending provision made by or under any local Act.
 - (4) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
 - (5) Schedule (*Licensing of cosmetic procedures*) makes further provision about regulations under this section (including provision for the imposition of fees, the creation of criminal offences and financial penalties).”

Member’s explanatory statement

This new Clause confers power on the Secretary of State to establish a licensing regime in connection with non-surgical cosmetic procedures.

Clause 166

LORD KAMALL

184A★

Page 135, line 41, at end insert –

“(da) regulations under section (*Licensing of cosmetic procedures*);”

Member’s explanatory statement

This amendment ensures that regulations under the new Clause about licensing of non-surgical cosmetic procedures are subject to the affirmative procedure.

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28 February 2022
