

Health and Care Bill

SECOND MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON REPORT

The amendments have been marshalled in accordance with the Order of 25th February 2022, as follows –

Clause 1	Schedule 10
Schedule 1	Clause 69
Clauses 2 to 14	Schedule 11
Schedule 2	Clauses 70 to 74
Clauses 15 to 17	Schedule 12
Schedule 3	Clauses 75 to 98
Clauses 18 to 27	Schedule 13
Schedule 4	Clauses 99 to 112
Clause 28	Schedule 14
Schedule 5	Clauses 113 to 123
Clauses 29 to 40	Schedule 15
Schedule 6	Clauses 124 to 149
Clauses 41 to 43	Schedule 16
Schedule 7	Clauses 150 to 159
Clauses 44 to 61	Schedule 17
Schedule 8	Clause 160
Clauses 62 and 63	Schedule 18
Schedule 9	Clauses 161 to 170
Clauses 64 to 68	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 20

LORD KAMALL

36

Page 21, line 25, at end insert –

“(ba) set out any steps that the integrated care board proposes to take to address the particular needs of children and young persons under the age of 25;”

Member's explanatory statement

This amendment requires the joint forward plan for an integrated care board and its partners to set out any steps that the integrated care board proposes to take to address the particular needs of children or young persons under the age of 25.

LORD CRISP
LORD SCRIVEN
LORD HUNT OF KINGS HEATH

- 37 Page 22, line 9, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 38 Page 22, line 11, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 39 Page 22, line 15, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 40 Page 22, line 23, after the second “trusts” insert “and primary care services”

Member's explanatory statement

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

- 41 Page 22, line 28, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 42 Page 22, line 33, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 43 Page 22, line 36, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 44 Page 23, line 3, after the second “trusts” insert “and primary care services”

Member's explanatory statement

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

- 45 Page 23, line 6, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 46 Page 23, line 11, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 47 Page 23, line 37, after the second “trusts” insert “and primary care services”

Member’s explanatory statement

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

- 48 Page 23, line 43, after “trusts” insert “and primary care services”

Member’s explanatory statement

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

- 49 Page 23, line 45, after “trusts” insert “and primary care services”

Member’s explanatory statement

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

- 50 Page 24, line 7, after “trusts” insert “and primary care services”

Member’s explanatory statement

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

- 51 Page 24, line 9, after “trusts” insert “and primary care services”

Member’s explanatory statement

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

- 52 Page 24, line 20, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 53 Page 24, line 22, after “trusts” insert “and primary care services”

Member's explanatory statement

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

- 54 Page 24, line 26, after “trusts” insert “and primary care services”

Member's explanatory statement

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

LORD KAMALL

- 55 Page 24, leave out lines 39 to 43 and insert “sections 14Z34 to 14Z44 and 14Z47A (general duties of integrated care boards),”

Member's explanatory statement

This amendment requires the annual report for an integrated care board to explain, in particular, how it has discharged its duties under sections 14Z34 to 14Z44 and 14Z47A (rather than just some of those sections).

- 56 Page 25, line 2, after “plan),” insert –
 “(ba) review the extent to which the board has exercised its functions consistently with NHS England’s views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised),”

Member's explanatory statement

This amendment requires the annual report for an integrated care board to state how far it has exercised its functions consistently with views expressed by NHS England in the latest statement published under new section 13SA.

LORD KAMALL
 LORD STEVENS OF BIRMINGHAM
 BARONESS HOLLINS

- 57 Page 25, line 8, at end insert –
 “(3A) An annual report must include –

Clause 20 - continued

- (a) a statement of the amount of expenditure incurred by the integrated care board during the financial year in relation to mental health,
- (b) a calculation of the proportion of the expenditure incurred by the integrated care board during the financial year that relates to mental health, and
- (c) an explanation of the statement and calculation.”

Member’s explanatory statement

This amendment requires an integrated care board to include in its annual report information about spending that relates to mental health.

LORD KAMALL
LORD SHARKEY
LORD PATEL
LORD KAKKAR

- 58 Page 25, line 25, at end insert –
“(ca) section 14Z40 (duty in respect of research),”

Member’s explanatory statement

This amendment requires a performance assessment in respect of an integrated care board to include, in particular, an assessment of how well the board has discharged its duty to promote research and the use of evidence obtained from research. Another amendment provides that the duty to promote research etc includes doing so by facilitating research.

BARONESS HOLLINS
BARONESS TYLER OF ENFIELD

- 59 Page 25, line 31, at insert –
“(3A) In conducting a performance assessment, NHS England must, in particular, include an assessment of the steps the integrated care board has taken to meet the particular needs of children and young persons under the age of 25, including –
 - (a) the steps taken to integrate services and share information with partners;
 - (b) performance of the duties to promote the welfare of and safeguard children;
 - (c) performance of the duties relating to children and young people with special educational needs and disabilities.”

Member’s explanatory statement

This amendment would require NHS England to assess how well each integrated care board is meeting the needs of babies, children and young people aged 0-25 creating accountability for delivery of ICB duties to integrate services and promote the health and welfare of children.

BARONESS BRINTON
LORD CLEMENT-JONES

- 60 Page 27, line 43, at end insert –
“(3) This section however does not authorise –
 - (a) the disclosure of patient information, or

Clause 20 - continued

- (b) the disclosure of personal information obtained from a specified authority which is a health or social care body.
- (4) For the purposes of this section a “health or social care body” means a public body which exercises functions in connection with the provision of health services or of adult social care in England.”

Member’s explanatory statement

This amendment would prevent ICBs from disclosing patient information or certain personal information.

Clause 21

LORD LANSLEY

61 Page 29, line 14, leave out from “committee” to the end of line 20 and insert “(an “integrated care partnership”) for the board’s area.

- (2) The integrated care partnership may be designated as the Health and Wellbeing Board where the area of the integrated care board and the responsible local authority are coterminous.
- (2A) If more than one Health and Wellbeing Board relates to the area of the integrated care board, the integrated care partnership may be designated as the Health and Wellbeing Boards of each responsible local authority acting in combination.
- (2B) The integrated care partnership must consist of—
 - (a) one or more members appointed by the Health and Wellbeing Board or Boards,
 - (b) members appointed by the integrated care board (equivalent in number to the number appointed by the Health and Wellbeing Board or Boards), and
 - (c) such further members as are appointed by the integrated care partnership.”

LORD MCCOLL OF DULWICH

BARONESS HOLLINS

BARONESS WALMSLEY

LORD JONES OF CHELTENHAM

62 Page 29, line 35, at end insert —

- “(2A) In preparing a strategy under this section, an integrated care partnership must consider the needs of those with dementia, including how it plans to—
 - (a) consistently meet or exceed the target dementia diagnosis rate of 66.7%, and
 - (b) improve public participation in dementia research.”

Clause 21 - continued

BARONESS ARMSTRONG OF HILL TOP
 LORD SHIPLEY
 BARONESS NEUBERGER
 BARONESS MORGAN OF DREFELIN

- 63 Page 29, line 40, at end insert –
 “(c) the need to improve health outcomes for Inclusion Health populations.”

Member’s explanatory statement

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

LORD FARMER

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

Member’s explanatory statement

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

BARONESS ARMSTRONG OF HILL TOP
 LORD SHIPLEY
 BARONESS NEUBERGER
 BARONESS MORGAN OF DREFELIN

- 65 Page 30, line 4, after “services” insert “, housing”

Member’s explanatory statement

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

LORD FARMER

- 66 Page 30, line 5, at end insert –
 “(5A) As part of the strategy under subsection (5) the integrated care partnership may consider how family help services, including those accessed through family hubs, could be more closely integrated with arrangements for the provision of health services and social care services in that area.”

Clause 21 - continued

BARONESS ARMSTRONG OF HILL TOP
LORD SHIPLEY
BARONESS NEUBERGER
BARONESS MORGAN OF DREFELIN

67 Page 30, line 28, at end insert –

“(d) “Inclusion Health populations” are identifiable groups who experience social exclusion and elevated levels of morbidity and mortality when compared to otherwise equivalent groups.”

Member’s explanatory statement

This amendment defines Inclusion Health populations for the purposes of the amendment to Clause 21 at page 29, line 40.

LORD FARMER

68 Page 30, line 28, at end insert –

“(d) “family help” means services which improve children’s lives through supporting the family unit and strengthening family relationships to enable children to thrive and keep families together;

(e) “family hubs” has the same meaning as in paragraph 9 of Schedule 2 to the Children Act 1989, as amended by this Act.”

Clause 26

LORD LANSLEY

69 Page 37, line 24, leave out “objectives and”

70 Page 37, line 27, leave out “objectives and”

71 Page 37, leave out lines 36 and 37

72 Page 37, line 38, leave out “objectives and”

73 Page 38, leave out lines 15 and 16

74 Page 38, line 18, leave out “objectives and”

Schedule 4

LORD FARMER

75 Page 168, line 34, at end insert –

“36A In Schedule 2, leave out paragraph 9 and insert –

“9 (1) Every local authority shall provide such family hubs as they consider appropriate with regard to local needs in relation to children and families within their area.

Schedule 4 - continued

- (2) “Family hub” means an access point at which any of the persons mentioned in sub-paragraph (3) may –
 - (a) access advice, guidance, counselling or paediatric health services, and
 - (b) access occupational, social, cultural or recreational activities.
- (3) The persons are –
 - (a) a child;
 - (b) a child's parents;
 - (c) any person who is not a parent of a child but who has parental responsibility for a child;
 - (d) any other person who is looking after a child or who is related to a child.””

LORD KAMALL

76 Page 173, line 29, at end insert –

“Armed Forces Act 2006

82A (1) Section 343AA of the Armed Forces Act 2006 (due regard to principles: England)(as inserted by section 8(3) of the Armed Forces Act 2021) is amended as follows.

- (2) In subsection (3), for paragraph (h) substitute –

“(h) an integrated care board;”.
- (3) In subsection (8) –
 - (a) omit the definition of “clinical commissioning group”;
 - (b) at the appropriate place insert –

““integrated care board” means a body established under section 14Z25 of the National Health Service Act 2006;”.”

Member’s explanatory statement

This amendment is consequential on Clause 14 of the Bill, which establishes integrated care boards.

77 Page 193, line 14, at end insert –

“Police, Crime, Sentencing and Courts Act 2022

239 The Police, Crime, Sentencing and Courts Act 2022 is amended as follows.

240(1) Section 25 (relevant review partners) is amended as follows.

- (2) In subsection (2)(c) for “a clinical commissioning group” substitute “an integrated care board”.
- (3) In subsection (3)(c) for “clinical commissioning group” substitute “integrated care board”.

241 In section 36 (interpretation), in subsection (1) –

- (a) omit the definition of “clinical commissioning group”;
- (b) at the appropriate place insert –

““integrated care board” means a body established under section 14Z25 of the National Health Service Act 2006;”;

Schedule 4 - continued

(c) in the definition of “review partner”, for paragraph (c) substitute—

“(c) an integrated care board, or”.

242 In Schedule 1 (specified authorities and local government areas), in the table headed “Health and social care”—

(a) for “A clinical commissioning group established under section 14D” substitute “An integrated care board established under section 14Z25”;

(b) for “the group’s” substitute “the board’s”.

Member’s explanatory statement

This amendment is consequential on Clause 14 of the Bill, which establishes integrated care boards.

Clause 29

LORD KAMALL

78 Page 39, line 34, leave out “also”

Member’s explanatory statement

This amendment is consequential on the insertion into section 13U of the NHS Act 2006, by another amendment, of a duty for NHS England to include additional matters in its annual report.

Before Clause 35

LORD KAMALL

LORD PATEL

LORD SHARKEY

LORD KAKKAR

79 Insert the following new Clause—

“Duties in respect of research

In section 1E of the National Health Service Act 2006 (duty as to research), after “must” insert “facilitate or otherwise”.

Member’s explanatory statement

This Clause provides that the Secretary of State’s duty to promote research etc includes doing so by facilitating research.

Clause 35

BARONESS CUMBERLEGE
LORD STEVENS OF BIRMINGHAM
BARONESS WALMSLEY
BARONESS MERRON

80 Page 42, leave out lines 14 to 19 and insert –

- “(1) The Secretary of State must, at least once every two years, lay a report before Parliament describing the system in place for assessing and meeting the workforce needs of the health, social care and public health services in England.
- (2) This report must include –
 - (a) an independently verified assessment of health, social care and public health workforce numbers, current at the time of publication, and the projected workforce supply for the following five, ten and 20 years; and
 - (b) an independently verified assessment of future health, social care and public health workforce numbers based on the projected health and care needs of the population for the following five, ten and 20 years, taking account of the Office for Budget Responsibility long-term fiscal projections.
- (3) NHS England and Health Education England must assist in the preparation of a report under this section.
- (4) The organisations listed in subsection (3) must consult health and care employers, providers, trade unions, Royal Colleges, universities and any other persons deemed necessary for the preparation of this report, taking full account of workforce intelligence, evidence and plans provided by local organisations and partners of integrated care boards.”

Member’s explanatory statement

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

BARONESS MERRON
BARONESS WALMSLEY
LORD PATEL

81 Page 42, line 19, at end insert –

“1GB Duty to report on workforce systems: further provision

- (1) Within a period of three months after the day on which the Secretary of State lays before Parliament a report under section 1GA, each integrated care board must prepare and publish a plan for meeting the workforce requirements identified within its area.
- (2) In preparing a plan the integrated care board must publish a draft plan and consult the public and, in particular –
 - (a) the integrated care partnership,

Clause 35 - continued

- (b) all local authorities whose areas coincide with or include the whole or part of the integrated care board's area,
 - (c) directors of public health within all local authorities whose areas coincide with or include the whole or part of the integrated care board's area,
 - (d) staff representatives,
 - (e) such representatives of the patients, carers and wider public within its area that the integrated care partnership agrees are appropriate, and
 - (f) relevant trade unions.
- (3) A plan under this section must –
- (a) be consistent with the report prepared by the Secretary of State under the provisions of section 1GA,
 - (b) be consistent with the joint forward plans for the integrated care board and its partners under the provisions of section 14Z50,
 - (c) ensure safe staffing levels will be met in all locations and for all aspects of care,
 - (d) have regard to the contribution of paid and informal carers,
 - (e) consider all staff, including allied health professionals and support staff who contribute to the provision of healthcare, social care and public health services,
 - (f) include the staff employed in the private and voluntary sectors that contribute significantly towards the provision of healthcare, social care and public health services in the area,
 - (g) consider the views of any trade unions that represent staff,
 - (h) cover planning periods of two, five and 10 years,
 - (i) explicitly state any assumptions about –
 - (i) recruitment of staff from outside the United Kingdom, and
 - (ii) any variations to the terms and conditions of staff, and
 - (j) explicitly state any proposals or assumptions about outsourcing of services and the staffing implications.
- (4) When publishing a plan under subsection (1), an integrated care board must also publish any related documents, including the results of the consultation, and minutes of any discussions by the integrated care board and its partner organisations.”

Member's explanatory statement

This amendment requires each Integrated Care Board to produce a workforce plan that is consistent with the workforce strategy determined by the Secretary of State. This ensures plans for delivery follow the agreement of any strategy. Each Integrated Care Board must consult on its plans which must be published.

After Clause 35

BARONESS BENNETT OF MANOR CASTLE

82 Insert the following new Clause—

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

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

Clause 39

LORD LANSLEY

83 Page 47, line 37, at end insert—

- “(4) A direction under section 13ZC may not be given in relation to a decision about the relative allocation of resources to integrated care boards.
- (5) A direction under section 13ZC may not be given in relation to a decision about the results of a procurement of goods or services provided for the purposes of the NHS in England.”

Clause 40

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY
LORD LANSLEY

84 Leave out Clause 40

Member’s explanatory statement

This would remove Clause 40 (Reconfiguration of services: intervention powers) from the Bill.

Clause 45

LORD KAMALL
LORD PATEL
LORD KAKKAR

- 85 Page 50, line 6, leave out “The reference in subsection (1)” and insert “In subsection (1)–
(a) the reference”

Member’s explanatory statement

This amendment is consequential on another amendment which provides that references in new section 26A of the NHS Act 2006 to effects of a decision in relation to certain matters include its effects in relation to inequalities with respect to those matters.

LORD KAMALL
LORD KAKKAR

- 86 Page 50, line 9, at end insert –
“(b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
(c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.”

Member’s explanatory statement

This amendment provides that references in new section 26A of the NHS Act 2006 to effects of a decision in relation to certain matters include its effects in relation to inequalities with respect to those matters.

After Clause 45

LORD KAMALL
LORD STEVENS OF BIRMINGHAM
BARONESS HAYMAN

- 87 Insert the following new Clause –
“NHS trusts: duties in relation to climate change
After section 26A of the National Health Service Act 2006 (inserted by section 45 of this Act) insert –
“26B Duties in relation to climate change etc
(1) An NHS trust established under section 25 must, in the exercise of its functions, have regard to the need to –
(a) contribute towards compliance with –
(i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
(ii) section 5 of the Environment Act 2021 (environmental targets), and

After Clause 45 - continued

- (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS trusts must have regard to guidance published by NHS England under section 13ND.””

Member’s explanatory statement

The new Clause would require NHS trusts, in exercising their functions, to have regard to certain matters relating to the environment, including climate change.

Clause 54

LORD KAMALL
BARONESS MERRON

88 Page 53, line 16, at end insert “in respect of a single financial year”

Member’s explanatory statement

This amendment means that any order imposing a limit on the capital expenditure of an NHS foundation trust may only relate to a single financial year (rather than spanning more than one financial year).

LORD KAMALL

89 Page 53, line 20, leave out “period” and insert “financial year”

Member’s explanatory statement

This amendment is consequential on the amendment requiring an order under new section 42B(1) of the National Health Service Act 2006 to relate to a single financial year.

90 Page 53, line 22, at end insert –

- “(4A) An order under this section may be made at any time during or before the financial year to which it relates.”

Member’s explanatory statement

This amendment is consequential on the amendment requiring an order imposing a limit on the capital expenditure of a foundation trust to relate to a single financial year. It clarifies that although the limit must relate to the whole financial year, the order imposing it may be made part-way through that year.

91 Page 53, line 24, leave out “period” and insert “financial year”

Member’s explanatory statement

This amendment is consequential on the amendment requiring an order under new section 42B(1) of the National Health Service Act 2006 to relate to a single financial year.

Clause 59

LORD KAMALL
LORD PATEL
LORD KAKKAR

- 92 Page 55, line 37, leave out “The reference in subsection (1)” and insert “In subsection (1) –
(a) the reference”

Member’s explanatory statement

This amendment is consequential on another amendment which provides that references in new section 63A of the NHS Act 2006 to effects of a decision in relation to certain matters include its effects in relation to inequalities with respect to those matters.

LORD KAMALL
LORD KAKKAR

- 93 Page 55, line 40, at end insert –
“(b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
(c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.”

Member’s explanatory statement

This amendment provides that references in new section 63A of the NHS Act 2006 to effects of a decision in relation to certain matters include its effects in relation to inequalities with respect to those matters.

After Clause 59

LORD KAMALL
LORD STEVENS OF BIRMINGHAM
BARONESS HAYMAN

- 94 Insert the following new Clause –
“NHS foundation trusts: duties in relation to climate change
After section 63A of the National Health Service Act 2006 (inserted by section 59 of this Act) insert –
“63B Duties in relation to climate change etc
(1) An NHS foundation trust must, in the exercise of its functions, have regard to the need to –
(a) contribute towards compliance with –
(i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
(ii) section 5 of the Environment Act 2021 (environmental targets), and

After Clause 59 - continued

- (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS foundation trusts must have regard to guidance published by NHS England under section 13ND.””

Member’s explanatory statement

The new Clause would require NHS foundation trusts, in exercising their functions, to have regard to certain matters relating to the environment, including climate change.

Clause 62

LORD LANSLEY

95 Page 57, line 29, at end insert –

“(d) a place board.”

96 Page 57, line 35, at end insert –

“(2A) In this section “place board” means a body established by an integrated care board as a committee of the board with a remit to promote population health improvement in the area to which it relates and which consists of persons whom the board, in consultation with the responsible local authority, local healthwatch and representatives of primary care providers, believe can best assess the needs for NHS, public health and social care services in that area.”

Clause 67

LORD KAMALL

LORD PATEL

LORD KAKKAR

97 Page 61, line 42, at end insert –

“(2AA) For the purposes of subsection (2)(da) (as read with subsection (2A)) –

- (a) a reference to the effects of decisions in relation to the health and well-being of the people of England includes a reference to the effects of the decisions in relation to inequalities between the people of England with respect to their health and well-being;
- (b) a reference to effects of decisions in relation to the quality of services provided to individuals includes a reference to the effects of the decisions in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.”

Member’s explanatory statement

This amendment provides that references in new subsection (2)(da) of section 96 of the Health and Social Care Act 2012 to effects of a decision in relation to certain matters include its effects in relation to inequalities with respect to those matters.

Schedule 10

LORD LANSLEY

98 Page 223, line 21, at end insert –

“(5A) Rules under subsection (1) may not be framed by reference to whether the provider is in the public or, as the case may be, private sector.”

LORD HENDY

98A★ Page 223, line 21, at end insert –

“(5A) Rules under subsection (1) must –

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

Member’s explanatory statement

These amendments are intended to ensure that privatisation of NHS services do not undermine the terms and conditions of equivalent workers in the NHS.

98B★ Page 224, line 11, after “following” insert “on the likely impact of the proposed scheme”

Member’s explanatory statement

This amendment, along with another amendment to Schedule 10, page 224, in the name of Lord Hendy, is intended to expand the scope of consultations and ensure that the relevant workers, through their unions, are included in them.

98C★ Page 224, line 13, at end insert –

- “(ba) all trade unions representing workers employed –
- (i) by or in services for which each integrated care board is responsible,
 - (ii) by each relevant provider, or
 - (iii) by any other provider of equivalent services in the public sector;”

Member's explanatory statement

This amendment, along with another amendment to Schedule 10, page 224, in the name of Lord Hendy, is intended to expand the scope of consultations and ensure that the relevant workers, through their unions, are included in them.

Clause 69

LORD LANSLEY

99 Page 62, line 26, at end insert –

“(1C) The regulations must ensure that where a provider is commissioned to provide specified services to NHS England or one or more integrated care boards and the provider offers that service elsewhere in England, patients in England have that service made available to them as a choice of treatment or service.”

LORD WARNER

LORD HUNT OF KINGS HEATH

BARONESS CUMBERLEGE

100 Page 63, line 21, at end insert –

“6H Survey relating to patient choice

NHS England must annually conduct a public survey of whether patients have been offered choices about where they obtain treatment and must report to the Secretary of State what action they will take as a result of the survey.”

Clause 70

LORD KAMALL

101 Page 63, line 35, leave out “procurement by relevant authorities” and insert “processes to be followed and objectives to be pursued by relevant authorities in the procurement”

Member's explanatory statement

This amendment changes the principal regulation-making power in relation to procurement so that regulations under the power will have to include provision for procurement processes and objectives.

102 Page 63, line 40, at end insert –

“(1A) Regulations under subsection (1) must include provision specifying steps to be taken when following a competitive tendering process.”

Member's explanatory statement

This amendment requires procurement regulations to include provision specifying steps to be taken when following a competitive tendering process.

103 Page 63, line 41, leave out from beginning to end of line 1 on page 64

Member's explanatory statement

This amendment is consequential on the changes made by another amendment to the principal regulation-making power in relation to procurement.

104 Page 64, leave out lines 2 to 6 and insert —

- “(3) Regulations under subsection (1) must, in relation to the procurement of all health care services to which they apply, make provision for the purposes of —
- (a) ensuring transparency;
 - (b) ensuring fairness;
 - (c) ensuring that compliance can be verified;
 - (d) managing conflicts of interest.”

Member's explanatory statement

This amendment requires procurement regulations to make provision, in relation to all health care services to which they apply, for the purposes of ensuring transparency and fairness and that compliance can be verified and managing conflicts of interest.

LORD LANSLEY

105 Page 64, line 6, at end insert —

- “(3A) In subsection (2) the general objectives of procurement include —
- (a) securing the needs of service users,
 - (b) enabling services to be provided in an integrated way,
 - (c) securing improvements in quality and efficiency, and
 - (d) treating providers equally.”

LORD KAMALL

106 Page 64, leave out lines 7 and 8 and insert —

- “(4) NHS England must publish such guidance as it considers appropriate about compliance with the regulations.”

Member's explanatory statement

This amendment requires NHS England to publish guidance about compliance with any procurement regulations that are made.

BARONESS THORNTON

106A★ Leave out Clause 70

Member's explanatory statement

This is a contingency amendment to remove Clause 70 (Procurement regulations) from the Bill, in case needed.

Clause 71

LORD KAMALL

107 Page 64, line 31, at end insert —

- “(b) in section 272 (orders, regulations, rules and directions), in subsection (6), after paragraph (zzd), insert —
- “(zze) regulations under section 12ZB.”

Member's explanatory statement

This amendment means that regulations made under new section 12ZB of the National Health Service Act 2006 (as inserted by Clause 70 of the Bill) will be subject to the affirmative procedure rather than the negative procedure.

After Clause 71

LORD BLENCATHRA
BARONESS KENNEDY OF THE SHAWS
BARONESS BRINTON
LORD ALTON OF LIVERPOOL

108

Insert the following new Clause—

“Health service procurement and supply chains: genocide convention obligations

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

After Clause 77

LORD KAMALL
BARONESS MERRON

109

Insert the following new Clause—

“Meaning of “health” in NHS Act 2006

In section 275(1) of the National Health Service Act 2006 (interpretation), at the appropriate place insert—

““health” includes mental health;”.

Member's explanatory statement

This new Clause clarifies that in the NHS Act 2006 “health” includes mental health (unless the context otherwise requires). Although the natural meaning of health is capable of including “mental health” the existing provisions of the Act are inconsistent about whether they mention mental health expressly which could cause confusion.

Clause 79

LORD KAMALL

110

Page 69, line 42, at end insert “and the “and” before it”

Member's explanatory statement

This amendment is consequential on Clause 79(3) of the Bill, which omits paragraph (c) of section 100(4) of the Care Act 2014.

After Clause 80

LORD HUNT OF KINGS HEATH
LORD WARNER

111 Insert the following new Clause—

“GP Distribution

- “(1) Within six months of the passing of this Act, the Secretary of State must undertake a review into the varied distribution of GPs in England, including—
- (a) the reasons for the distribution, and
 - (b) actions to ensure there is an equitable distribution of GPs.
- (2) Within 18 months of the passing of this Act, the Secretary of State must lay before Parliament the results of the review.
- (3) The review must consult with representatives of the medical profession and other organisations deemed relevant by the Secretary of State.”

LORD WARNER
LORD SCRIVEN
LORD HUNT OF KINGS HEATH
LORD KAKKAR

112 Insert the following new Clause—

“PART 1A**HEALTH AND CARE SUSTAINABILITY****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

After Clause 80 - continued

- (c) consider the stability of health and adult social care funding relative to changing demographic and disease trends, including the alignment between health and adult social care funding, and publish regular reports.
- (6) The functions of the Office are to be exercised on behalf of the Crown as if it was a public department.
- (7) The Office is to consist of—
 - (a) an executive chair appointed by the Secretary of State with the consent of the Public Accounts and Health Select Committees of the House of Commons,
 - (b) two other members appointed by the Secretary of State with the consent of the Public Accounts and Health Select Committees of the House of Commons, and
 - (c) two other members nominated by the Office and appointed by the Secretary of State.
- (8) The initial appointments under subsection (7) are for a term of five years and no more than two terms may be served.
- (9) The remuneration of the executive chair is to be agreed by the Secretary of State but may not be less than that paid to the Permanent Secretary of the Department of Health and Social Care; and all other salaries and gratuities for members may be agreed by the Office with the consent of the Secretary of State for Health and Social Care.
- (10) The Office may employ staff on terms and remuneration consistent with that of the civil service.
- (11) The Office may—
 - (a) establish such committees and sub-committees as it deems necessary,
 - (b) determine its own procedures and those of its committees and sub-committees, and
 - (c) do anything calculated to facilitate, or conducive or incidental to, the carrying out of any of its functions.
- (12) The annual budget of the Office is to be provided by the Secretary of State after consultation with the Public Accounts Committee of the House of Commons.
- (13) The Office must keep proper accounts and records in relation to its accounts, and must prepare and publish each year an audited statement of accounts.
- (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.

BARONESS PITKEATHLEY
LORD YOUNG OF COOKHAM
BARONESS MEACHER
BARONESS HOLLINS

113

Insert the following new Clause—

“Carers and safe discharge from hospital

- (1) This section applies where—
 - (a) a person (“the patient”) is a qualifying hospital patient at a hospital, and
 - (b) the responsible NHS body considers that it is unlikely to be safe to discharge the patient from hospital unless care provided by one or more carers is available to the patient.
- (2) It is the duty of the responsible NHS body to—
 - (a) consult the patient about their preferences regarding their care following discharge from hospital, and
 - (b) take reasonable steps to identify and consult any carer or potential carer of the patient about to be discharged.
- (3) The NHS body must consult any carer or potential carer identified under subsection (2) to ascertain—
 - (a) whether the carer is able, and is likely to continue to be able, to provide care for the patient needing care, and
 - (b) whether the carer is willing, and is likely to continue to be willing, to do so.
- (4) Having consulted the carer, the NHS body must cooperate with the local authority in relation to their duties under the Care Act 2014, the Health and Care Act 2006 and the Children Act 1989.
- (5) For the purposes of this section—
 - (a) a “qualifying hospital patient” means a person being accommodated at—
 - (i) a health service hospital, or
 - (ii) an independent hospital in pursuance of arrangements made by an NHS body,who is receiving (or who has received or is expected to receive) care.
 - (b) a “carer” means any person, including any child under the age of 18, who provides or intends to provide care in respect of a patient to whom the NHS may provide services, but a person is not to be regarded as a carer if they provide or intend to provide care under or by virtue of a contract, or as voluntary work.”

Member’s explanatory statement

This provision retains the principle and duty on a hospital, whether it be an NHS hospital or an independent hospital, to ensure that a patient must be safe to discharge from hospital and mirrors carers’ rights which were established in the Community Care (Delayed Discharges, etc) Act 2003.

LORD HOWARTH OF NEWPORT
LORD CRISP
BARONESS GREENGROSS
THE LORD BISHOP OF LONDON

114 Insert the following new Clause—

“Creative health

- (1) Within six months of the passing of this Act the Secretary of State must establish a review to consider and report on social prescribing and other creative health interventions, including—
 - (a) the existing provision, quality and effectiveness of social prescribing and other creative health interventions,
 - (b) the evidence base and research requirements,
 - (c) the benefits in terms of preventing ill health and aiding recovery,
 - (d) the impact on health inequalities, social value and communities,
 - (e) barriers to innovation,
 - (f) sustainability,
 - (g) means to integrate creative health with other approaches to health care and social care, and
 - (h) the potential to extend and improve creative health provision, including—
 - (ii) the costs and benefits of doing so, and
 - (iii) the resources and actions needed to realise this potential.
- (2) The Secretary of State must appoint as Chair and members of the reviewing committee individuals who appear to the Secretary of State likely to have an informed and independent view of the relevant issues.
- (3) The review must consult—
 - (a) creative health practitioners,
 - (b) people with lived experience of social prescribing and other creative health interventions,
 - (c) charities working in the field of creative health,
 - (d) the National Academy for Social Prescribing,
 - (e) the Office for Health Improvement and Disparities,
 - (f) Integrated Care Partnerships,
 - (g) Royal Colleges,
 - (h) NHS Providers,
 - (i) the NHS Confederation,
 - (j) Health Education England,
 - (k) the Local Government Association,
 - (l) social care providers,
 - (m) Research Councils,
 - (n) Academic Health Science Networks, and
 - (o) others that the Chair of the review considers appropriate.
- (4) The review must make recommendations to the Secretary of State on the topics described in subsection (1).

After Clause 80 - continued

- (5) The report of the review must be published within 18 months of the passing of this Act.
- (6) Within three months of receiving the report the Secretary of State must lay before Parliament a statement specifying how he or she intends to implement the recommendations of the review, including timescales and budget.”

Clause 91

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY

115 Leave out Clause 91

Member’s explanatory statement

This amendment and the amendments to leave out Clauses 92 to 97 together remove Part 3 (Secretary of State’s Powers to Transfer or Delegate Functions), which concerns powers over arms-length bodies, from the Bill.

Clause 92

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES

116 Page 86, line 30, 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 safe haven for patient data across health and social care, required for national statistics, for commissioning, regulatory and research purposes, and for 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
LORD PATEL
BARONESS WALMSLEY

117 Leave out Clause 92

Clause 93

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY

118 Leave out Clause 93

Clause 94

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY

119 Leave out Clause 94

Clause 95

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY

120 Leave out Clause 95

Clause 96

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY

121 Leave out Clause 96

Clause 97

BARONESS THORNTON
LORD PATEL
BARONESS WALMSLEY

122 Leave out Clause 97

Clause 98

LORD ETHERTON
LORD HUNT OF KINGS HEATH

122A★ Leave out Clause 98

Member's explanatory statement

This amendment, and other amendments in the name of Lord Etherton to Part 4, will remove the provisions concerning the Health Services Safety Investigations Body.

Schedule 13

LORD ETHERTON
LORD HUNT OF KINGS HEATH

122B★ Leave out Schedule 13

Member's explanatory statement

This amendment is consequential on the amendments removing Part 4 of the Bill.

Clause 99

LORD ETHERTON
LORD HUNT OF KINGS HEATH

122C★ Leave out Clause 99

Clause 100

LORD HUNT OF KINGS HEATH
LORD PATEL

123 Page 93, line 23, 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.

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123A★ Leave out Clause 100

Clause 101

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123B★ Leave out Clause 101

Clause 102

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123C★ Leave out Clause 102

Clause 103

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123D★ Leave out Clause 103

Clause 104

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123E★ Leave out Clause 104

Clause 105

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123F★ Leave out Clause 105

Clause 106

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123G★ Leave out Clause 106

Clause 107

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123H★ Leave out Clause 107

Clause 108

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123J★ Leave out Clause 108

Clause 109

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123K★ Leave out Clause 109

Clause 110

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123L★ Leave out Clause 110

Clause 111

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123M★ Leave out Clause 111

Clause 112

LORD ETHERTON
LORD HUNT OF KINGS HEATH

123N★ Leave out Clause 112

Schedule 14

LORD HUNT OF KINGS HEATH
BARONESS WALMSLEY
LORD PATEL

124 Page 237, line 41, leave out paragraph 6

Member's explanatory statement

This amendment would remove the provision allowing coroners to require the disclosure of protected material.

LORD ETHERTON
LORD HUNT OF KINGS HEATH

124A★ Leave out Schedule 14

Member's explanatory statement

This amendment is consequential on the amendments removing Part 4 of the Bill.

Clause 113

LORD ETHERTON
LORD HUNT OF KINGS HEATH

124B★ Leave out Clause 113

Clause 114

LORD HUNT OF KINGS HEATH
BARONESS WALMSLEY
LORD PATEL

125 Page 101, line 34, leave out subsection (7)

Member's explanatory statement

This amendment, along with another amendment to Schedule 14, would remove the provision allowing coroners to require the disclosure of protected material.

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125A★ Leave out Clause 114

Clause 115

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125B★ Leave out Clause 115

Clause 116

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125C★ Leave out Clause 116

Clause 117

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125D★ Leave out Clause 117

Clause 118

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125E★ Leave out Clause 118

Clause 119

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125F★ Leave out Clause 119

Clause 120

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125G★ Leave out Clause 120

Clause 121

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125H★ Leave out Clause 121

Clause 122

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125J★ Leave out Clause 122

Clause 123

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125K★ Leave out Clause 123

Schedule 15

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125L★ Leave out Schedule 15

Member's explanatory statement

This amendment is consequential on the amendments removing Part 4 of the Bill.

Clause 124

LORD ETHERTON
LORD HUNT OF KINGS HEATH

125M★ Leave out Clause 124

Schedule 16

LORD KAMALL

126 Page 242, line 11, after “(h)” insert –
“(a) omit the “and” at the end of sub-paragraph (iv);”

Member’s explanatory statement

This amendment is consequential on paragraph 5 of Schedule 16 to the Bill, which adds a new sub-paragraph (vi) to section 19A(6)(h) of the Criminal Procedure (Scotland) Act 1995.

Clause 151

LORD SHARKEY

- 126A★** Page 117, line 40, leave out subsection (3) and insert –
- “(3) In section 1, omit “an EEA state or Switzerland” and insert “a relevant state or territory”.
 - (4) In subsection 2(1)(b) omit “an EEA state or Switzerland” and insert “a relevant state or territory”.
 - (5) In subsection 2(2) after (i) insert –
 - “(j) make provision to make payment (otherwise than under a healthcare agreement) in respect of healthcare provided in a relevant country or territory, but only when the Secretary of State considers that exceptional circumstances justify the payment and has laid before Parliament the reasons for such consideration and the details of the payments;”.
 - (5) Omit subsection 2(7).
 - (6) After section 2 insert –
 - “(2ZA) Regulations under section 2 may –
 - (a) confer functions on a relevant public authority or a Scottish or Welsh health board (including discretions);
 - (b) provide for the delegation of functions to a relevant public authority or a Scottish or Welsh health board.
 - (2ZB) The Secretary of State may give directions to a person about the exercise of any functions exercisable by the person under regulations made by virtue of section 1 (and may vary or revoke any such directions).”
- 126B★** Page 117, line 41, leave out “For section 2 substitute” and insert “After section 2 insert”
- 126C★** Page 117, line 42, leave out from beginning of line 42 to the end of line 40 on page 118
- 126D★** Page 119, leave out lines 19 to 21

Clause 151 - continued

- 126E★** Page 119, leave out lines 42 to 46 and insert—
 ““healthcare agreement” means an agreement made between the government of the United Kingdom and either the government of a relevant country or territory or an international organisation, concerning either or both of the following—
 (a) healthcare provided in a relevant country or territory, payments in respect of which may be made by the government of the United Kingdom;
 (b) healthcare provided in the United Kingdom, payments in respect of which may be made by a relevant country or territory;”
- 126F★** Page 119, line 46, at end insert—
 “(5A) In section 3 at end insert—
 ““relevant country or territory” means a country or territory outside the United Kingdom, in respect of which there is a healthcare agreement;
 “Scottish health board” means a Health Board established under section 2(1)(a) of the National Health Service (Scotland) Act 1978;
 “Welsh health board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;
 “relevant public authority” means a person who exercises functions of a public nature other than—
 (a) the Scottish Ministers,
 (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998),
 (c) the Welsh Ministers,
 (d) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006,
 (e) a Northern Ireland department, or
 (f) any other person whose functions—
 (i) are exercisable only or mainly in or as regards Northern Ireland, and
 (ii) relate only or mainly to transferred matters within the meaning of the Northern Ireland Act 1998.”
- 126G★** Page 120, leave out line 8 and insert—
 “(c) omit subsections 7(3) to 7(5);”

Clause 155

BARONESS WHEELER
 BARONESS BRINTON
 BARONESS CAMPBELL OF SURBITON

- 127** Page 124, line 16, leave out subsection (2)

Member's explanatory statement

This amendment is linked with the amendment in the name of Baroness Wheeler to leave out Clause 155.

LORD KAMALL

128 Page 124, leave out lines 19 to 29 and insert –

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

Member's explanatory statement

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

129 Page 124, leave out lines 33 and 34 and insert “at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult”

Member's explanatory statement

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

130 Page 125, line 1, after “Where” insert “, following a determination under section 13(1),”

Member's explanatory statement

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

131 Page 125, leave out lines 6 to 8 and insert –

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

Member's explanatory statement

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

132 Page 125, leave out lines 13 to 18 and insert –

- “(a) the current cost to the local authority of meeting those needs,
- (b) how much of that cost the adult will be required to pay under section 14(1)(a), and

Clause 155 - continued

- (c) the balance, if any, of the cost referred to in paragraph (a).”

Member’s explanatory statement

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

- 133** Page 125, leave out lines 21 to 24 and insert—

- “(a) the current cost to the local authority of meeting those eligible needs,
(b) how much of that cost the adult will be required to pay under section 14(1)(a), and”

Member’s explanatory statement

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

- 134** Page 125, line 27, after “adult” insert “has needs which a local authority is required or decides to meet as mentioned in section 24(1) and”

Member’s explanatory statement

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

- 135** Page 125, leave out lines 29 and 30 and insert—

- “(a) what the current cost would be to the responsible local authority of meeting those eligible needs, and”

Member’s explanatory statement

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

- 136** Page 125, leave out lines 33 to 37

Member’s explanatory statement

This amendment leaves out language that is no longer needed in light of the amendment to page 125, lines 13 to 18 and the amendment to page 125, lines 21 to 24 that both appear in the Minister’s name.

- 137** Page 125, line 41, leave out from beginning to “(but” in line 42 and insert “what the current cost would be to the responsible local authority of meeting the adult’s eligible needs”

Member's explanatory statement

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

- 138** Page 125, line 45, after “authority” insert “or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)”

Member's explanatory statement

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

- 139** Page 125, line 46, leave out paragraph (b)

Member's explanatory statement

This amendment leaves out language that is no longer needed in light of the amendment to page 125, line 41 that appears in the Minister's name.

- 140** Page 126, line 8, leave out subsections (7) and (8) and insert—
- “(7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
 - “(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.
 - (8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
 - “(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

Member's explanatory statement

This amendment is consequential on the amendment to page 125, lines 13 to 18 that appears in the Minister's name.

BARONESS WHEELER
 BARONESS BRINTON
 LORD LANSLEY
 LORD WARNER

- 141** Leave out Clause 155

Member's explanatory statement

This amendment would remove Clause 155 (Cap on care costs for charging purposes) from the Bill.

After Clause 155

LORD LIPSEY

142 Insert the following new Clause—

“Prescribed amount for social care tariff income from capital

- (1) In regulation 25(1) of the Care and Support (Charging and Assessment of Resources) Regulations 2014 (S.I. 2014/2672) for “£250” substitute “£500”.
- (2) For the avoidance of doubt, this section prevents the Secretary of State from exercising the powers conferred by the Care Act 2014 to prescribe by regulations a different amount.”

Member’s explanatory statement

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

BARONESS BULL
BARONESS CAMPBELL OF SURBITON
LORD WARNER
LORD LANSLEY

143 Insert the following new Clause—

“Social care cap for younger adults

In section 15 of the Care Act 2014 (cap on care costs), after subsection (4) insert—

- “(4A) The Secretary of State must ensure that regulations made under subsection (4) specify a zero amount for adults—
- (a) who are under the age of 40 when they first receive care and support to meet their eligible needs, or
 - (b) who have eligible needs which first required care and support before they reached the age of 40.””

Member’s explanatory statement

This new Clause would ensure that adults entering the care system under the age of 40, or who were under 40 when they first entered it, would have their care costs capped at zero, in line with the Dilnot report recommendation.

BARONESS WHEELER
BARONESS BRINTON

144 Insert the following new Clause—

“Social care needs assessment: safe discharge from hospital

- (1) Before a patient is discharged from hospital—
 - (a) the hospital must inform the relevant local authority which must make arrangements to undertake a social care needs assessment as soon as practicable and no later than two weeks after the date of discharge, and
 - (b) the hospital must consult any carer who is to provide care to the patient to develop a plan for the health-related services to be provided to both the patient and carer with a view to ensuring safe discharge and continuing support in the care setting.

After Clause 155 - continued

- (2) The hospital must provide the plan under subsection (1)(b) to the relevant local authority.
- (3) Each integrated care board must agree with all relevant local authorities the process to apply for social care needs assessment in hospital or after discharge, including reporting on any failures to complete required assessments within the required time and any remedies or penalties that would apply in such cases.
- (4) Each integrated care board must ensure that the additional costs borne by a local authority in caring for a patient whilst carrying out social care needs assessments after a patient has been discharged are met in full by the integrated care board.
- (5) The Secretary of State must publish an annual report on the effectiveness of assessment of social care needs after hospital discharge.”

Member’s explanatory statement

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

LORD 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.”

Clause 156

BARONESS BENNETT OF MANOR CASTLE
LORD HOWARTH OF NEWPORT

145 Page 126, line 37, at end insert –

“(c) after subsection (2) insert –

“(3) No financial assistance provided under this section may be used for the purposes of –

- (a) repaying debt incurred outside of the business's normal day-to-day operations;
- (b) paying interest on debt incurred outside of the business's normal day-to-day operations;
- (c) making distributions to shareholders.”

Member’s explanatory statement

This amendment ensures that financial assistance given by the Secretary of State is not distributed to shareholders or used to repay debt obligations incurred as “financial engineering” or leveraging.

After Clause 156

BARONESS BENNETT OF MANOR CASTLE
LORD HOWARTH OF NEWPORT

146 Insert the following new Clause—

“Review of financial regulation of companies providing social care

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

Member’s explanatory statement

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

BARONESS BENNETT OF MANOR CASTLE
BARONESS TYLER OF ENFIELD
LORD HOWARTH OF NEWPORT

147 Insert the following new Clause—

“Financial transparency of offshore corporate groups providing social care

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

Member’s explanatory statement

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

After Clause 157

LORD YOUNG OF COOKHAM

147A★ Insert the following new Clause—

“Registration of social care workers

- (1) Section 60 of the Health Act 1999 is amended as follows.
- (2) In subsection (1), omit paragraphs (bc) and (bd).
- (3) After subsection (1) insert—
 - “(1A) Her Majesty must by Order in Council make provision—
 - (a) regulating social care workers in England who appear to Her to require regulation in pursuance of this section, and
 - (b) modifying the regulation of social care workers in England, so far as appears to Her to be necessary or expedient for the purpose of securing or improving their regulation or the services which they provide or to which they contribute.”
- (4) In subsection (2ZB), leave out “(1)(bc) and (bd)” and insert “(1A)”.

Schedule 18

LORD MOYLAN

148 Page 254, line 34, after “State” insert “which may not include products containing more than 20% of their calorific value by way of protein and not more than 5 grams of sugar per 100 grams in their composition”

Member’s explanatory statement

This amendment, along with others to Schedule 18, ensures that foods that can be advertised as “low sugar” and “high protein” under Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods are exempt from the restrictions on advertising proposed in that Schedule.

LORD BETHELL

BARONESS BOYCOTT

BARONESS WALMSLEY

LORD KREBS

149 Page 255, line 5, at end insert “but no later than 1 April 2023”

LORD MOYLAN

150 Page 255, line 36, after “State” insert “which may not include products containing more than 20% of their calorific value by way of protein and not more than 5 grams of sugar per 100 grams in their composition”

Member’s explanatory statement

This amendment, along with others to Schedule 18, ensures that foods that can be advertised as “low sugar” and “high protein” under Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods are exempt from the restrictions on advertising proposed in that Schedule.

LORD BETHELL
BARONESS BOYCOTT
BARONESS WALMSLEY
LORD KREBS

151 Page 256, line 7, at end insert “but no later than 1 April 2023”

LORD MOYLAN

152 Page 257, line 16, after “State” insert “which may not include products containing more than 20% of their calorific value by way of protein and not more than 5 grams of sugar per 100 grams in their composition”

Member’s explanatory statement

This amendment, along with others to Schedule 18, ensures that foods that can be advertised as “low sugar” and “high protein” under Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods are exempt from the restrictions on advertising proposed in that Schedule.

LORD BETHELL
BARONESS BOYCOTT
BARONESS WALMSLEY
LORD KREBS

153 Page 257, line 35, after “there” insert “but no later than 1 April 2023”

After Schedule 18

LORD KAMALL
LORD LANSLEY
BARONESS MERRON

153A Insert the following new Schedule –

“LICENSING OF COSMETIC PROCEDURES

Introduction

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;

After Schedule 18 - continued

- (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 —
 - (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;

After Schedule 18 - continued

- (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

- 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).

Clause 161

LORD HUNT OF KINGS HEATH

154 Page 131, line 29, at end insert –

“(ba) after subsection (5A) insert –

“(5AA) Regulations made under this section must specify that the board of an NHS Trust and NHS Foundation Trust must designate a director to take responsibility for the oversight of –

- (a) the imposition of requirements under this section in connection with food or drink provided or made available to any person on hospital premises in England, and
- (b) the implementation of nutritional standards specified under this section.”;

Member’s explanatory statement

The amendment is designed to ensure that NHS Trusts and Foundation Trusts appoint a director to oversee requirements under section 20 of the Health and Social Care Act 2008.

After Clause 161

LORD HUNT OF KINGS HEATH

BARONESS BARKER

BARONESS MERRON

155 Insert the following new Clause –**“Care food standards**

- (1) Section 20 of the Health and Social Care Act 2008 (regulation of regulated activities) is amended as follows.
- (2) In subsection (3) after paragraph (da) insert –
 - “(db) impose requirements in connection with food or drink provided or made available to any person in a care home or care settings in England that are used in connection with the carrying on of a regulated activity;”.
- (3) After subsection (4B) insert –
 - “(4C) Regulations made under this section by virtue of subsection (3)(db) may in particular –
 - (a) specify nutritional standards, or other nutritional requirements, which are to be complied with;
 - (b) require that specified descriptions of food or drink are not to be provided or made available; and
 - (c) specify the mandatory training required for all catering staff working within those settings.”

Clause 163

BARONESS MCINTOSH OF PICKERING

156 Page 133, line 34, at end insert –

“(10) The Secretary of State may not exercise the powers provided by virtue of –

Clause 163 - continued

- (a) this section to request a water undertaker to enter into arrangements to increase the fluoride content of the water, or
 - (b) section 164 to request modifications to old English fluoridation arrangements,
- until an impact assessment has been published setting out the impact on health and the environment, including a cost-benefit analysis.”

After Clause 164

LORD KAMALL

157 Insert the following new Clause –

“Child safeguarding etc in health and care: policy about information sharing

- (1) The Secretary of State must publish and lay before Parliament a report describing the government’s policy in relation to the sharing of information by or with public authorities in the exercise of relevant functions of those authorities, for purposes relating to –
 - (a) children’s health or social care, or
 - (b) the safeguarding or promotion of the welfare of children.
- (2) In this section, “relevant functions” means functions relating to children’s health or social care, so far as exercisable in relation to England.
- (3) The report must include an explanation of whether or to what extent it is the government’s policy that a consistent identifier should be used for each child, to facilitate the sharing of information.
- (4) The report must include a summary of the Secretary of State’s views about implementation of the policy referred to in subsection (1), including any views about steps that should be taken to overcome barriers to implementation.
- (5) The report must be published and laid before Parliament within one year beginning with the date on which this section comes into force.
- (6) In this section “child” means a person aged under 18.”

Member’s explanatory statement

This amendment inserts a new clause requiring the Secretary of State to publish and lay before Parliament a report describing the government’s policy in relation to information-sharing by or with authorities with health and social care functions, for purposes relating to children’s health or social care or the safeguarding or promotion of the welfare of children.

LORD KAMALL

LORD LANSLEY

BARONESS MERRON

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 –

After Clause 164 - continued

- (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;
 - (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.

After Clause 164 - continued

- (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.

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

158

Insert the following new Clause –

“Tobacco products statutory scheme: consultation

- (1) The Secretary of State must, no later than six months after this Act is passed, consult and report on the desirability of making a scheme (referred to in this section and section (*Tobacco products statutory scheme: supplementary*) as a statutory scheme) for one or more of the following purposes –
 - (a) regulating, for the purposes of improving public health, the prices which may be charged by any manufacturer or importer of tobacco products for the supply of any tobacco products;
 - (b) limiting the profits which may accrue to any manufacturer or importer in connection with the manufacture or supply of tobacco products;
 - (c) providing for any manufacturer or importer of tobacco products to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those products (whether on the basis of net prices, average selling prices or otherwise) to be used for the purposes of reducing smoking prevalence and improving public health.
- (2) The consultation must ask for views on a draft statutory scheme (or alternative draft schemes), which may, in particular, make any provision mentioned in subsections (3) to (6).
- (3) The draft scheme or schemes may provide for any amount representing sums charged by any manufacturer or importer to whom the scheme applies, in excess of the limits determined under the scheme, for tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (4) The draft scheme or schemes may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or importer to whom the scheme applies in connection with the manufacture or importation of tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (5) The draft scheme or schemes may provide for any amount payable in accordance with the scheme by any manufacturer or importer to whom the scheme applies to be paid to the Secretary of State within a specified period.
- (6) The draft scheme or schemes may –

After Clause 164 - continued

- (a) prohibit any manufacturer or importer to whom the scheme applies from varying, without the approval of the Secretary of State, any price charged by the manufacturer or importer for the supply of any tobacco product covered by the scheme, and
 - (b) provide for any amount representing any variation in contravention of that prohibition in the sums charged by that person for that product to be paid to the Secretary of State within a specified period.
- (7) The Secretary of State must lay the report before Parliament and a Minister of the Crown must arrange to make a statement to each House of Parliament setting out in detail any steps which will be taken to implement the findings of the report.”

Member’s explanatory statement

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

159

Insert the following new Clause—

“Tobacco products statutory scheme: supplementary

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

After Clause 164 - continued

160

Insert the following new Clause –

“Tobacco products statutory scheme: enforcement

- (1) The provisions of this section apply if, following consultation under section (*Tobacco products statutory scheme: consultation*), legislation is enacted which enables the making of a statutory scheme.
- (2) Regulations may provide for a person who contravenes any provision of the scheme, including any regulations or directions made under the scheme, to be liable to pay a penalty to the Secretary of State.
- (3) The penalty may be –
 - (a) a single penalty not exceeding £5 million;
 - (b) a daily penalty not exceeding £500,000 for every day on which the contravention occurs or continues.
- (4) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of any provision in the scheme reflecting section (*Tobacco products statutory scheme: consultation*) (4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (5) Regulations may provide for any amount payable to the Secretary of State by virtue of any provision in the scheme reflecting section (*Tobacco products statutory scheme: consultation*) (3), (4), (5) or (6)(b) (including such an amount as increased under subsection (4) of this section) to carry interest at a rate specified or referred to in the regulations.
- (6) Provision may be made by regulations for conferring on manufacturers and importers a right of appeal against enforcement decisions taken in respect of them in pursuance of the scheme, section (*Tobacco products statutory scheme: consultation*), (*Tobacco products statutory scheme: supplementary*), and this section.
- (7) The provision which may be made by virtue of subsection (6) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994, reading –
 - (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision, and
 - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (8) In subsections (6) and (7), “enforcement decision” means a decision of the Secretary of State or any other person to –
 - (a) require a specific manufacturer or importer to provide information to him or her,
 - (b) limit, in respect of any specific manufacturer or importer, any price or profit,
 - (c) refuse to give his or her approval to a price increase made by a specific manufacturer or importer, or
 - (d) require a specific manufacturer or importer to pay any amount (including an amount by way of penalty) to him or her,

After Clause 164 - continued

and in this subsection “specific” means specified in the decision.

- (9) A requirement or prohibition, or a limit, under section (*Tobacco products statutory scheme: consultation*), may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (10) Subsection (9) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State under section (*Tobacco products statutory scheme: consultation*) or this section.
- (11) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (3).”

161 Insert the following new Clause –

“Tobacco products statutory scheme: controls: supplementary

- (1) The provisions of this section apply if, following consultation under section (*Tobacco products statutory scheme: consultation*), legislation is enacted which enables the making of a statutory scheme.
- (2) Any power conferred on the Secretary of State by legislation enacted which enables the making of a statutory scheme, and by section (*Tobacco products statutory scheme: supplementary*) may be exercised by –
 - (a) making regulations, or
 - (b) giving directions to a specific manufacturer or importer.
- (3) Regulations under subsection (2)(a) may confer power for the Secretary of State to give directions to a specific manufacturer or importer; and in this subsection “specific” means specified in the direction concerned.
- (4) In this section and sections (*Tobacco products statutory scheme: consultation*), (*Tobacco products statutory scheme: supplementary*) and (*Tobacco products statutory scheme: enforcement*) –

“tobacco product” means a product that can be consumed and consists, even partly, of tobacco;

“manufacturer” means any person who manufactures tobacco products;

“importer” means any person who imports tobacco products into the United Kingdom with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, and contravention of a provision includes a failure to comply with it.”

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

162 Insert the following new Clause –

“Appropriate consent to transplantation activities when travelling abroad

- (1) Section 32 of the Human Tissue Act 2004 (prohibition of commercial dealings in human material for transplantation) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1), after paragraph (e) insert –

After Clause 164 - continued

- “(f) travels outside the United Kingdom to a country or part of a country where explicit consent is not required for the legal donation of controlled material which does not meet the criteria in subsection (1A)(a) to (c) and receives any controlled material, for the purpose of transplantation, without—
 - (i) the free, informed and specific consent of a living donor, or
 - (ii) the free, informed and specific consent of the donor’s next of kin, where the donor is unable to provide consent;
 - (g) travels outside the United Kingdom to a country or part of a country where explicit consent is required for the legal donation of controlled material and receives any controlled material for the purpose of transplantation where the material was obtained without—
 - (i) the free, informed and specific consent of a living donor, or
 - (ii) the free, informed and specific consent of the donor’s next of kin, where the donor is unable to provide consent;
 - (h) travels outside the United Kingdom to a country or part of a country and receives any controlled material for the purpose of transplantation for which, in exchange for the removal of controlled material—
 - (i) the living donor, or a third party, receives a financial gain or comparable advantage, or
 - (ii) where the controlled material comes from a deceased donor, a third party receives financial gain or comparable advantage.”
- (3) After subsection (1) insert—
- “(1A) The Secretary of State must publish an annual assessment of countries where, explicit consent is not required for the legal donation of controlled material, determining whether each of those countries—
- (a) provides a formal, publicly funded scheme for opting out of deemed consent for donation of controlled material,
 - (b) provides an effective programme of public education to its population on the deemed consent system and the opt-out scheme which delivers a high level of public understanding of both, and
 - (c) is not considered to be committing Genocide by resolution of the House of Commons.
- (1B) In paragraph (h) in subsection (1), the expression “financial gain or comparable advantage” does not include compensation for loss of earnings and any other justifiable expenses caused by the removal or by the related medical examinations, or compensation in case of damage which is not inherent to the removal of controlled material.
- (1C) Subsection (1E) applies if—
- (a) an act which forms part of an offence under subsection (1) takes place outside the United Kingdom, but
 - (b) the person committing the act has a close connection with the United Kingdom.

After Clause 164 - continued

- (1D) For the purposes of subsection (1C)(b), a person has a close connection with the United Kingdom if, and only if, the person was one of the following at the time the acts or omissions concerned were done or made—
- (a) a British citizen;
 - (b) a British overseas territories citizen;
 - (c) a British National (Overseas);
 - (d) a British Overseas citizen;
 - (e) a person who under the British Nationality Act 1981 was a British subject;
 - (f) a British protected person within the meaning of that Act;
 - (g) an individual ordinarily resident in the United Kingdom;
 - (h) a body incorporated under the law of any part of the United Kingdom;
 - (i) a Scottish partnership.
- (1E) Where this subsection applies, proceedings for the offence may be taken in any criminal court in England and Wales or Northern Ireland.”
- (4) In subsection (3), after “subsection (1)” insert “(a) to (e)”.
- (5) In subsection (4), after “subsection (1)” insert “(a) to (e)”.
- (6) After subsection (4) insert—
- “(4A) A person guilty of an offence under subsection (1)(f) to (h) shall be liable—
- (a) on summary conviction—
 - (i) to imprisonment for a term not exceeding 12 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (b) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 9 years,
 - (ii) to a fine, or
 - (iii) to both.”

(7) In section 34 of the Human Tissue Act 2004 (information about transplant operations), after subsection (2) insert—

“(2A) Regulations under subsection (1) must require specified persons to—

 - (a) keep patient identifiable records for all instances of UK citizens who have received transplant procedures performed outside the United Kingdom; and
 - (b) report instances of transplant procedures performed on UK citizens outside the United Kingdom to NHS Blood and Transplant.

(2B) Regulations under subsection (1) must require NHS Blood and Transplant to produce an annual report on instances of UK citizens receiving transplant procedures outside the United Kingdom.””

Member’s explanatory statement

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

BARONESS FINLAY OF LLANDAFF
LORD SHIPLEY
LORD BROOKE OF ALVERTHORPE
BARONESS BOYCOTT

163 Insert the following new Clause—

“Alcohol labelling

- (1) The Secretary of State must, no later than one year after this Act is passed—
 - (a) publish a report on alcohol labelling, assessing which elements should be mandatory on labels to improve consumer knowledge, and this should include, but not be limited to—
 - (i) warning about alcohol harms,
 - (ii) calorific and other nutritional information,
 - (b) lay the report before Parliament, and a Minister of the Crown must arrange to make a statement to each House of Parliament setting out any steps which will be taken to implement the findings of the report.”

Member’s explanatory statement

This amendment requires the Secretary of State to publish a report on alcohol labelling to improve consumer knowledge.

LORD HUNT OF KINGS HEATH

164 Insert the following new Clause—

“Vaccine damage payments

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

Member’s explanatory statement

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

LORD HUNT OF KINGS HEATH
LORD CLEMENT-JONES

165 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,

After Clause 164 - continued

- (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.

LORD MOYLAN
LORD ABERDARE
BARONESS FINLAY OF LLANDAFF
BARONESS HAYMAN OF ULLOCK

166 Insert the following new Clause –

“Guidance on Pancreatic Enzyme Replacement Therapy

- (1) The Secretary of State must, within six 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.
- (2) 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.”

LORD MOYLAN
LORD ABERDARE
BARONESS HAYMAN OF ULLOCK
LORD PATEL

167 Insert the following new Clause –

“Report on pancreatic cancer services

- (1) The Secretary of State must, within six 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.

After Clause 164 - continued

- (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.”

LORD HUNT OF KINGS HEATH
BARONESS BRINTON
LORD KAKKAR
LORD PATEL

168 Insert the following new Clause—

“Review of the surgical consultant appointment process

- (1) Within six months of the passing of this Act, the Secretary of State must institute a review of the National Health Service (Appointment of Consultants) Regulations 1996 (S.I. 1996/701) and the extent to which the Royal College of Surgeons of Edinburgh, Royal College of Physicians of Edinburgh, Royal College of Physicians and Surgeons of Glasgow and Royal College of Emergency Medicine should be added to the list of colleges which may be involved in the appointment of NHS consultants.
- (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 consult with representatives of the medical profession and other relevant organisations.”

Member’s explanatory statement

This new Clause would require the Secretary of State to institute a review into the National Health Service (Appointment of Consultants) Regulations 1996 (S.I. 1996/701) and the extent to which the Royal College of Surgeons of Edinburgh, the Royal College of Physicians of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow and the Royal College of Emergency Medicine should be added to the list of colleges who may be involved in the appointment of NHS consultants.

BARONESS FINLAY OF LLANDAFF
LORD BETHELL
BARONESS MASHAM OF ILTON
BARONESS BRINTON

169 Insert the following new Clause—

“Licensing of cosmetic procedures

- (1) This section applies to any activity relating to the provision of cosmetic procedures, as specified in regulations made by the Secretary of State, which breach the epidermis of the skin by—
- (a) any physical means,
 - (b) any chemical means, or
 - (c) any other means using any energy-based device including by laser beam, light, radiofrequency, ultrasound or temperature alteration.
- (2) A person may only carry out an activity in subsection (1)—

After Clause 164 - continued

- (a) if –
 - (i) under the authority of a licence for the purposes of the activity, and with evidence of specified training, or
 - (ii) holding current valid registration with the General Medical Council, the General Dental Council or the Health Care Professions Council, and
- (b) if the activity is conducted on premises licensed for the purpose of the activity.
- (3) A person who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Secretary of State may by regulations make provision about licences and conditions for the purposes of this section.
- (5) Before making regulations under this section, the Secretary of State must consult the representatives of any interests concerned which the Secretary of State considers appropriate.
- (6) Regulations may in particular –
 - (a) require a licensing authority not to grant a licence unless satisfied as to a matter specified in the regulations, and
 - (b) require a licensing authority to have regard, in deciding whether to grant a licence, to a matter specified in the regulations.”

LORD FORSYTH OF DRUMLEAN
LORD BAKER OF DORKING
BARONESS MEACHER
LORD FALCONER OF THOROTON

170 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.”

LORD HUNT OF KINGS HEATH
BARONESS MCINTOSH OF PICKERING

171 Insert the following new Clause –

“National Institute for Health and Care Excellence

- (1) The Health and Social Care Act 2012 is amended as follows.
- (2) In section 237 (Advice, guidance, information and recommendations), after subsection (7) insert the following –

After Clause 164 - continued

- “(7A) The regulations must require NICE to issue recommendations on the use of medicines as close to the date of licensing as possible, including the date of medicines licensed under the Project Orbis scheme.
- (7B) The regulations must allow NICE to determine independently the procedures by which it gives advice, guidance, information or recommendations, including the discount rate it applies in its procedures.
- (7C) The regulations must provide for NICE to take account of a medicines manufacturer’s membership of the Voluntary Scheme for Branded Medicines Pricing and Access (VPAS) or the existence of a statutory scheme when making recommendations about a medicine.””

Member’s explanatory statement

This new Clause: (1) ensures that NICE structures its work programme so that guidance is issued as close to licensing as possible, including for medicines licensed under ‘Project Orbis’; (2) clarifies that NICE is free to determine its own methods, including the discount rate it applies when developing its recommendations, independently; and (3) ensures that controls on spending on medicines that exist under VPAS / statutory schemes apply to NICE.

BARONESS FINLAY OF LLANDAFF

BARONESS BRINTON

BARONESS STOWELL OF BEESTON

BARONESS MASHAM OF ILTON

172

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 to inform the parent’s proposals for the child’s treatment (including obtaining an additional medical opinion);
 - (c) to allow the provider of an alternative treatment that is being advocated by the parent to provide evidence, in person or remotely, to the mediation process and subsequently to the court;
 - (d) to demonstrate the reasons that significant harm would be likely to be caused by the proposed treatment; and

After Clause 164 - continued

- (e) where the two parties are unable to resolve their difference of opinion, to allow for a mediation process, acceptable to both parties, between the parent and the senior doctor with overall clinical responsibility.
- (3) Nothing in subsection (2) requires, or may be relied upon so as to require, the provision of any specific treatment by a doctor or institution, and in particular nothing in subsection (2) –
 - (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.
- (4) 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.
- (5) 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 with the welfare of the child within the meaning of this section.”

Member’s explanatory statement

This amendment aims to ensure that disputes between parents and doctors will be able to engage effective mediation.

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

173

Insert the following new Clause –

“Regulation of the public display of cadavers

In paragraph 5 of Schedule 1 to the Human Tissue Act 2004 (purposes requiring consent), after “Public display” insert “when at least one hundred years have elapsed since the date of the person’s death.””

Member’s explanatory statement

This amendment would ensure that cadavers would no longer be used for public display unless it is the body of a person where at least one hundred years have elapsed since the date of the person’s death.

BARONESS CHAKRABARTI
BARONESS BRINTON
BARONESS LAWRENCE OF CLARENDON

174 Insert the following new Clause—

“Global health emergency international cooperation

In the event of the World Health Organisation declaring a public health emergency of international concern (“PHEIC”), the Secretary of State must within three months—

- (a) initiate or otherwise support and implement proposals temporarily to waive elements of the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) at the World Trade Organisation to assist wider global manufacturing of and access to health technologies;
- (b) waive such UK-registered patents, industrial designs, other intellectual property rights, and protections concerning undisclosed information relating to—
 - (i) vaccines,
 - (ii) medicines,
 - (iii) diagnostics and their associated technologies, and
 - (iv) materials,
 as necessary for combatting the emergency internationally; and
- (c) issue relevant emergency compulsory directions to enable the domestic manufacturing of generic and biosimilar products.”

Member’s explanatory statement

In the event of a public health emergency of international concern, this new Clause requires the Secretary of State to support domestic and international knowledge-sharing, to combat the emergency.

175 [Withdrawn]

BARONESS HOLLINS
BARONESS BULL
BARONESS MERRON
LORD TOUHIG

176 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,”.

After Clause 164 - continued

- (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 Secretary of State must seek the participation of and consult such persons and bodies as they consider appropriate –
 - (a) in preparing the code, and
 - (b) in revising it.
- (4) 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.
- (5) The Secretary of State must review the code every three years and lay the findings before Parliament.
- (6) 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.”

BARONESS HODGSON OF ABINGER

177

Insert the following new Clause –

“Named GPs for over-65s

- (1) 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 and requested,
 - (c) to be responsible for the patient's overall care, and
 - (d) to ensure that the patient's health care needs are met.

After Clause 164 - continued

- (2) Where the patient requests, the role of the identified practitioner may be delegated to another identified general practitioner in the practice (or to two identified practitioners in the case of a job-share)."

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.

LORD HUNT OF KINGS HEATH

178

Insert the following new Clause—

“Access to new medicines in England

- (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 review of access to medicines in England with a view to ensuring that processes meet the aims of the Life Sciences Vision, and taking into consideration the following matters—
- (a) the capacity of NICE to deliver the expected appraisals within its work programme until 2025, and reasons for any delays to NICE appraisals since 2020;
 - (b) the effectiveness of the introduction of Project Orbis and the Innovative Licensing and Access Pathway in improving rapid access to cancer medicines;
 - (c) the development of an integrated access and reimbursement pathway for medicines granted Marketing Authorisation under Project Orbis or the Innovative Licensing and Access Pathway, to address delays between marketing authorisation and NICE decision;
 - (d) how the removal of the end-of-life criteria and introduction of the severity modifier to the NICE Health Technology Assessment process will impact on access to cancer medicines, and medicines exiting the Cancer Drugs Fund.
- (2) NICE must ensure that any medicines exiting the Cancer Drugs Fund are re-appraised using the same Health Technology Assessment process as in the original appraisal.”

Member's explanatory statement

This new Clause aims to ensure that: (1) current policies of the Government, NHS England and NICE are delivering access to medicines in line with the Government's Life Sciences Vision; (2) progress is monitored on an ongoing basis; (3) the appraisal criteria for medicines exiting the Cancer Drugs Fund is consistent with the original Health Technology appraisal.

LORD MOYNIHAN
BARONESS MORRIS OF YARDLEY
BARONESS GREY-THOMPSON
LORD ADDINGTON

179

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”).

After Clause 164 - continued

- (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.”

BARONESS CUMBERLEGE
LORD HUNT OF KINGS HEATH

180

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 make 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 BENNETT OF MANOR CASTLE
BARONESS FINLAY OF LLANDAFF

181 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.”

BARONESS GREENGROSS

182 Insert the following new Clause—

“Social care cap

- (1) The Secretary of State must pay or reimburse any expenditure incurred by any individual for social care services exceeding the maximum for social care contributions in that individual's lifetime in accordance with this section.
- (2) The maximum for social care contributions in any individual's lifetime for 2023 is £51,000.
- (3) The maximum for social care contributions in any individual's lifetime for each subsequent year is to be set by regulations made by the Secretary of State in accordance with subsection (4).
- (4) The regulations must provide that the maximum changes from the previous year by a proportion that is 1.5% above the rate of inflation based on the consumer price index.
- (5) The regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member's explanatory statement

The 2011 Dilnot report recommended that the contribution cap be set at £35,000 at that time. Care cost inflation runs at 1.5% above CPI, so to replicate the 2011 recommendation adjusting for this the cap would now be set at £51,000.

BARONESS SUGG
BARONESS BARKER
BARONESS THORNTON
BARONESS WATKINS OF TAVISTOCK

183 Insert the following new Clause—

“Permitted locations for abortion treatment

- (1) The Abortion Act 1967 is amended as follows.
- (2) In subsection 1(3) after the first “section” insert “, or section 1A of this Act”.
- (3) After section 1 insert—

“1A Approved places

- (1) The home of a registered medical practitioner is approved as a class of place for treatment for the termination of pregnancy for the purposes only of prescribing the medicines known as Mifepristone and Misoprostol to be used in treatment carried out in the manner specified in subsection (3).
- (2) The home of a pregnant woman who is undergoing treatment for the purposes of termination of her pregnancy is approved as a class of place where the treatment for termination of pregnancy may be carried out where that treatment is carried out in the manner specified in subsection (3).
- (3) The treatment must be carried out in the following manner—
 - (a) the pregnant woman has—
 - (i) attended an approved place,
 - (ii) had a consultation with an approved place via video link, telephone conference or other electronic means, or
 - (iii) had a consultation with a registered medical practitioner, nurse or midwife via video link, telephone conference or other electronic means; and
 - (b) the pregnant woman is prescribed Mifepristone and Misoprostol to be taken for the purposes of the termination of her pregnancy and the gestation of the pregnancy has not exceeded nine weeks and six days at the time the Mifepristone is taken.
- (4) Nothing in this section should be taken to affect any approval otherwise made by the Secretary of State under subsections 1(3) or 1(3A) of this Act.
- (5) For the purposes of this section—

“approved place” means a hospital in England or Wales, as authorised under section 1(3) of this Act, or a place in England or Wales approved under that section;

“home” means, in the case of a pregnant woman, the place in England or Wales where a pregnant woman has her permanent address or usually resides or, in the case of a registered medical practitioner, where a registered medical practitioner has their permanent address or usually resides.”

After Clause 164 - continued

BARONESS TYLER OF ENFIELD
 BARONESS WALMSLEY
 BARONESS HOLLINS

184 Insert the following new Clause—

“Report on NHS mental health standards

- (1) Within 12 months of the date on which this Act is passed, the Secretary of State must lay a report before Parliament outlining the Government’s plans to improve NHS mental health standards.
- (2) The report under subsection (1) must make reference to (but is not limited to) the introduction of—
 - (a) a maximum waiting time standard for an initial assessment by mental health services, and
 - (b) a maximum waiting time standard for commencement of treatment.
- (3) The report must also take into account any recent consultations undertaken by the Government or the NHS on mental health standards.”

Member’s explanatory statement

This new Clause would require the Secretary of State to report on mental health standards (including reference to maximum waiting times) taking into account consultations like the Mental health clinically-led review of standards published by the NHS on 22nd February 2022.

BARONESS CUMBERLEGE

184ZA★ Insert the following new Clause—

“Medical practitioners’ financial and non-pecuniary interests

- (1) Any organisation that—
 - (a) employs a medical practitioner registered on the register held by the General Medical Council,
 - (b) contracts with or commissions a medical practitioner to provide medical services, or
 - (c) provides practice rights to a medical practitioner registered on the register held by the General Medical Council,
 must comply with subsection (2).
- (2) An organisation as specified in subsection (1) must—
 - (a) hold a record of the financial and non-pecuniary interests of all the medical practitioners it employs and medical practitioners to whom it provides practice rights,
 - (b) ensure that all such records are reviewed annually and updated as necessary so that they are accurate and complete, and
 - (c) arrange to publish all such records.
- (3) The General Medical Council must take such steps as are reasonable to assure itself that an accurate record of each doctor’s financial and non-pecuniary interests is provided by each doctor during the doctor’s annual appraisal for recording by the organisations specified in subsection (1).”

Member's explanatory statement

This amendment requires any organisation that employs, contracts, commissions or provides practice rights to a medical practitioner to maintain and publish a record of the medical practitioner's financial and non-pecuniary interests.

BARONESS GREENGROSS

184ZB★ 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.”

Clause 166

LORD SHARKEY

184ZC★ Page 135, line 41, at end insert —

“(da) regulations under section 151;”

LORD KAMALL
BARONESS MERRON

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.

Clause 169

LORD KAMALL

185 Page 137, line 3, at end insert —

“(4A) Section (*Child safeguarding etc in health and care: policy about information sharing*) comes into force at the end of the period of three months beginning with the day on which this Act is passed.”

Member's explanatory statement

This amendment provides for commencement, three months after Royal Assent, of a new clause concerning government policy in relation to information-sharing by or with authorities with health and social care functions, for purposes relating to children's health or social care or the safeguarding or promotion of the welfare of children.

186 Page 137, line 4, leave out “(4)” and insert “(4A)”

Member's explanatory statement

This amendment is consequential on an amendment providing for commencement of a new Clause.

187 Page 137, line 7, at end insert —

“(6A) In relation to section 155 (cap on care costs for charging purposes), different days may be appointed under subsection (5) for different areas.”

Member’s explanatory statement

This amendment allows the care cap amendments to be brought into force at different times in different areas (which is consistent with the provision made by the Care Act 2014 for the commencement of the sections to which the amendments relate).

Health and Care Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

1 March 2022
