

Health and Care Bill

FOURTH
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.

After Clause 164

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—
 - (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.

After Clause 164 - continued

- (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.”

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—

After Clause 164 - continued

- (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,
- 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).”

After Clause 164 - continued

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—
 - “(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;

After Clause 164 - continued

- (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.
- (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;

After Clause 164 - continued

- (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 –

After Clause 164 - continued

- (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,
 - (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,

After Clause 164 - continued

- (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.
- (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.”

After Clause 164 - continued

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)—
 - (a) if —
 - (i) under the authority of a licence for the purposes of the activity, and with evidence of specified training, or

After Clause 164 - continued

- (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 –
 - “(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.

After Clause 164 - continued

- (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
 - (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.

After Clause 164 - continued

- (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 –
- (a) the principle of the best interests of the child,
 - (b) the law about the appropriate clinical practice to be followed as to –
 - (i) having regard to the child’s own views, where they can be expressed; and
 - (ii) 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
 LORD RUSSELL OF LIVERPOOL

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

After Clause 164 - continued

- (ii) in particular, training on learning disability and autism, appropriate to their role, as set out in the code of practice issued by the Secretary of State under section (*Mandatory training on learning disability and autism*) of the Health and Care Act 2022,”.
- (2) With regard to 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 in-person delivery of training,
 - (e) the accreditation of training,
 - (f) the procurement of training,
 - (g) the monitoring and evaluation of the impact of training, and
 - (h) 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 live, by people, in the presence of the trainee;
- “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—

After Clause 164 - continued

- (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.
- (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”).
- (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.”

Member’s explanatory statement

This amendment implements recommendations 1, 2 and 3 of the House of Lords ‘National Plan for Sport and Recreation Committee’ report (session 2021-2022 HL Paper 113) which makes ‘The case for a national plan for sport, health and wellbeing’.

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).

After Clause 164 - continued

- (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.

After Clause 164 - continued

- (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.””

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.

184ZA [Withdrawn]

BARONESS GREENGROSS
 LORD HOWARTH OF NEWPORT

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.”

After Clause 164 - continued

BARONESS NICHOLSON OF WINTERBOURNE
LORD BLENCATHRA

184ZBA Insert the following new Clause –

“Same-sex accommodation

- (1) NHS England must, as soon as reasonably practicable and within one month of this Act being passed, revoke Annex B to its NHS guidance on “Delivering Same-Sex Accommodation” published in September 2019 (relating to same-sex accommodation for trans people and gender variant children).
- (2) Where NHS England issues revised guidance on the same subject, it must ensure that it takes account of the exceptions provided under paragraphs 26 to 28 of Schedule 3 to the Equality Act 2010 (which allow for separate services for the sexes and single-sex services).”

BARONESS CUMBERLEGE
BARONESS NEUBERGER
BARONESS FINLAY OF LLANDAFF
BARONESS BRINTON

184ZBB 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 to provide medical services,
 - (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).
- (4) The Care Quality Commission must take such steps as are reasonable to assure itself that the organisations specified in subsection (1) collect and publish an accurate record of the financial and non-pecuniary interests of doctors they employ, commission, or contract with to provide medical services or to whom they provide practice rights.”

Member's explanatory statement

This amendment requires any organisation that employs, contracts with, or commissions medical practitioners to provide medical services or provides practice rights to medical practitioners, to maintain and publish a record of those medical practitioners' financial and non-pecuniary interests. It requires the General Medical Council and the Care Quality Commission to assure themselves that medical practitioners and specified organisations are complying with their respective duties under this Clause.

Clause 166

LORD SHARKEY
BARONESS BRINTON

- 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

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

14 March 2022
