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STATUTORY INSTRUMENTS

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**2022 No. 734**

**The Health and Care Act 2022 (Commencement No. 2  
and Transitional and Saving Provision) Regulations 2022**

**PART 8**

**Transitional provision in relation to the NHS payment scheme**

**Transitional provision: the national tariff and the NHS payment scheme**

**19.**—(1) The following modifications apply during the period beginning with 1st July 2022 and ending when section 77 (the NHS payment scheme) of the 2022 Act comes into force for all purposes.

(2) In section 13SB(3)(b)(ii) (minimising conflicts between regulatory and other functions) of the 2006 Act<sup>(1)</sup>, is to be read as if for “(NHS payment scheme)” there were substituted “(pricing)”.

(3) Except as provided in paragraph (4), in sections 116 to 127<sup>(2)</sup> of, and Schedule 12 to, the 2012 Act—

- (a) any reference to Monitor is to be read as a reference to NHS England;
  - (b) any reference to a clinical commissioning group is to be read as a reference to an integrated care board.
- (4) The 2012 Act is to be read as if—
- (a) section 116(13) were omitted;
  - (b) in section 117(4) and (5), the references to the commissioner of a health care service do not include a reference to NHS England;
  - (c) section 118(7) to (12) were omitted;
  - (d) in section 119—
    - (i) in subsection (1), the words “the National Health Service Commissioning Board and” were omitted;
    - (ii) subsections (2) to (4) were omitted;
  - (e) section 121(9)(b) were omitted;
  - (f) in section 122(2), “and the National Health Service Commissioning Board” were omitted;
  - (g) in section 123(7), “and the National Health Service Commissioning Board” were omitted;
  - (h) in section 124—
    - (i) for subsection (3) there were substituted—

“(3) An agreement under this section by an integrated care board has effect only if it is approved by NHS England.”;

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<sup>(1)</sup> Section 13SB is inserted by section 34(2) of the 2022 Act.

<sup>(2)</sup> Section 77 of the 2022 Act will, once it comes into force for all purposes, cause Chapter 4 of Part 3 of the 2012 Act (which contains sections 116 to 127) to be replaced with the provisions set out in Schedule 10 of the 2022 Act.

- (ii) in subsection (5), for “Monitor may approve an agreement under this section” there were substituted “NHS England may approve an agreement under this section by an integrated care board”;
- (i) in section 125(1), for “commissioner” there were substituted “integrated care board”;
- (j) in section 126—
  - (i) in subsection (3), “the National Health Service Commissioning Board and” were omitted;
  - (ii) in subsection (5), the words “The Board and” were omitted;
- (k) in section 127(1)—
  - (i) in paragraph (a)—
    - (aa) paragraph (3)(a) of this regulation does not apply to the reference to Monitor (and, accordingly, that reference continues to be read as a reference to Monitor);
    - (bb) after “concerned” there were inserted “before 1st July 2022”;
  - (ii) in paragraph (b), after “arbitration” there were inserted “before 1st July 2022”;
- (l) in Schedule 12—
  - (i) paragraph 1(2)(a) (and the “and” after it) were omitted;
  - (ii) paragraph 4(3)(b) (but not the “and” after it) were omitted.