



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

#### REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

### CHAPTER 6

#### FINANCIAL ASSISTANCE IN SPECIAL ADMINISTRATION CASES

##### *Levy on providers*

#### **142 Responses to consultation**

- (1) If Monitor receives objections from one or more potentially liable providers to its proposals, it may not give notice under section 143(1)(b) unless—
  - (a) the conditions in subsection (2) are met, or
  - (b) where those conditions are not met, Monitor has made a reference to the Competition Commission.
- (2) The conditions referred to in subsection (1)(a) are that—
  - (a) one or more potentially liable providers object to the proposals within the consultation period, and
  - (b) the objection percentage and the share of supply percentage are each less than the prescribed percentage.
- (3) In subsection (2)—
  - (a) the “objection percentage” is the proportion (expressed as a percentage) of the potentially liable providers who objected to the proposals, and
  - (b) the “share of supply percentage” is the proportion (expressed as a percentage) of the potentially liable providers who objected to the proposals, weighted according to their share of the supply in England of such services as may be prescribed.

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*Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.*

*Changes to legislation: Health and Social Care Act 2012, Section 142 is up to date with all changes known to be in force on or before 06 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (4) A reference under subsection (1)(b) must be so framed as to require the Competition Commission to investigate and report on the questions—
- (a) whether in making the proposals, Monitor failed to give sufficient weight to the matters in section 66,
  - (b) if so, whether that failure operates, or may be expected to operate, against the public interest, and
  - (c) if so, whether the effects adverse to the public interest which that failure has or may be expected to have could be remedied or prevented by changes to the proposals.
- (5) Schedule 10 (which makes further provision about references to the Competition Commission) has effect in relation to a reference under subsection (1)(b); and for that purpose—
- (a) paragraph 1 is to be ignored,
  - (b) in paragraph 5(2), the reference to six months is to be read as a reference to two months,
  - (c) in paragraph 5(4), the reference to six months is to be read as a reference to one month,
  - (d) in paragraph 7, sub-paragraphs (4) to (7) and (9) are to be ignored (and, in consequence of that, in sub-paragraph (8), the words from the beginning to “sub-paragraph (4)(c)” are also to be ignored), and
  - (e) the references to relevant persons are to be construed in accordance with subsection (6).
- (6) The relevant persons referred to in Schedule 10 are—
- (a) in paragraphs 3, 5(6) and 6(6)—
    - (i) the National Health Service Commissioning Board, and
    - (ii) the potentially liable providers who objected to the proposals, and
  - (b) in paragraph 8(10)—
    - (i) Monitor, and
    - (ii) the potentially liable providers who objected to the proposals.
- (7) In investigating the question under subsection (4)(a), the Competition Commission must have regard to the matters in relation to which Monitor has duties under this Chapter.
- (8) Regulations prescribing a percentage for the purposes of subsection (2)(b) may include provision prescribing the method used for determining a provider's share of the supply in England of the services concerned.

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**Commencement Information**

**II** S. 142 partly in force; s. 142 in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)

**Status:**

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**Changes to legislation:**

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