
EXPLANATORY NOTE

(This note is not part of the Order)

This Order excludes from the Chapter I prohibition in the Competition Act 1998 agreements between the National Health Service Commissioning Board (NHS England) and providers who are not part of the NHS, between other NHS bodies and independent providers or between independent providers, intended to assist the NHS in addressing the effects or likely effects of coronavirus on the provision of health services to patients in England. The Chapter I prohibition precludes agreements between undertakings, decisions by associations of undertakings or concerted practices which may affect trade within the United Kingdom and which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom. Where there are exceptional and compelling reasons of public policy for doing so, the Secretary of State may exclude an agreement or an agreement of a particular description from the Chapter I prohibition.

Article 3 of the Order specifies the activities to which an agreement must relate in order to qualify for an exclusion and article 4 sets out other requirements which an agreement must meet in order to qualify for exclusion.

Article 5 requires the Secretary of State to publish a notice if the Secretary of State considers that there is no longer a significant disruption or a threat of significant disruption to the provision of health services to patients in England as a result of coronavirus. The notice must specify the date on which the period during which the exclusions under this Order apply, is to end.

Articles 6 and 7 provide for agreements to be notified to the Secretary of State and for a register of the agreements to be compiled and published by the Secretary of State.

No impact assessment has been prepared for this Order.