

**2012 No. 1831 (C. 71)**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**NATIONAL HEALTH SERVICE, ENGLAND**

**PUBLIC HEALTH**

**SOCIAL CARE**

**The Health and Social Care Act 2012 (Commencement No.2  
and Transitional, Savings and Transitory Provisions) Order 2012**

*Made* - - - -

*11th July 2012*

The Secretary of State for Health makes the following Order in exercise of the powers conferred by sections 304(10) and 306 of the Health and Social Care Act 2012(a).

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Health and Social Care Act 2012 (Commencement No.2 and Transitional, Savings and Transitory Provisions) Order 2012.

(2) In this Order—

“the Act” means the Health and Social Care Act 2012;

“the 2006 Act” means the National Health Service Act 2006(b);

“the Board” means the National Health Service Commissioning Board established under section 1H of the 2006 Act(c);

“the Board Authority” means the Special Health Authority established under the NHS Commissioning Board Authority (Establishment and Constitution) Order 2011(d);

“financial year” means the period which begins on 1st April and ends on the following 31st March;

“initial period” has the meaning given in paragraph 1(2) of Schedule 6 to the Act.

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(a) 2012 c. 7.

(b) 2006 c. 41.

(c) Section 1H is inserted by section 9(1) of the Health and Social Care Act 2012 (“the Act”).

(d) S.I. 2011/2237. The NHS Commissioning Board Authority is abolished under article 3 of the NHS Commissioning Board Authority (Abolition and Transfer of Staff, Property and Liabilities) and the Health and Social Care Act 2012 (Consequential Amendments) Order 2012 (S.I. 2012/1641).

## Commencement of provisions

2.—(1) Insofar as they are not already in force<sup>(a)</sup>, the following provisions of the Act shall come into force in accordance with this Order.

(2) 1st October 2012 is the day appointed for the coming into force of the following provisions of the Act—

section 1 (Secretary of State's duty to promote the comprehensive health service) only insofar as it—

- (a) substitutes section 1(1) of the 2006 Act, and
- (b) relates to the Board's duty under section 1H(2) and (3)(b) of the 2006 Act;

section 9(1) (the National Health Service Commissioning Board) only insofar as it inserts section 1H(1), (2), (3)(b) and (4) into the 2006 Act (the NHS Commissioning Board and its general functions);

section 9(2) and Schedule 1 (the National Health Service Commissioning Board), except insofar as it inserts paragraph 17 of Schedule A1 into the 2006 Act (interim accounts);

section 10 (clinical commissioning groups) only insofar as it inserts section 1I(1) into the 2006 Act;

section 17(13) (powers in relation to research) only insofar as it confers powers on the Board;

section 21 (functions of Special Health Authorities);

section 22 (exercise of public health functions of the Secretary of State) for the purpose only of enabling—

- (a) the Secretary of State to arrange for the Board or a clinical commissioning group to exercise public health functions of the Secretary of State on or after the date on which section 22 comes fully into force, and
- (b) the Board to arrange for a clinical commissioning group to exercise public health functions under section 7A(4) of the 2006 Act on or after the date on which section 22 comes fully into force;

section 23 (the National Health Service Commissioning Board: further provision) only insofar as it inserts into the 2006 Act—

- (a) sections 13A to 13D,
- (b) section 13E(1) to (3) and (4)(a),
- (c) sections 13F to 13J,
- (d) sections 13K(1) and 13L,
- (e) section 13N,
- (f) section 13P,
- (g) section 13R,
- (h) section 13T for the purpose only of the first business plan of the Board for the financial year ending 31st March 2014 and subsequent financial years;
- (i) section 13U, except for section 13U(2)(c),
- (j) section 13W,
- (k) section 13Y,
- (l) sections 13Z to 13Z3, and
- (m) section 13Z4(1), except insofar as the definition of "health services" relates to section 13Q;

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(a) See section 306(1) of the Act for the provisions which came into force on the day the Act was passed and S.I. 2012/1319 (C. 47) for provisions of the Act which came into force by Order on earlier dates.

section 24 (financial arrangements for the Board) only insofar as it inserts section 223B(2) and (3) into the 2006 Act;

section 25(1) (clinical commissioning groups: establishment etc.), except insofar as it inserts section 14I into the 2006 Act;

Schedule 2 only insofar as it inserts the following paragraphs of Schedule 1A into the 2006 Act—

- (a) paragraphs 1 to 10,
- (b) paragraph 12(1) to (3) and (4)(a),
- (c) paragraph 12(4)(b) except insofar as it relates to employees of the group or groups,
- (d) paragraph 12(9)(a)(i) and (iv) and (b),
- (e) paragraph 12(9)(a)(iii) only insofar as it relates to paragraphs 17(1), (2) and (9) and 19,
- (f) paragraphs 17(1), (2) and (9), and
- (g) paragraph 19,

and section 25(2) insofar as it relates to those paragraphs;

section 26 (clinical commissioning groups: general duties etc.) only insofar as it inserts into the 2006 Act—

- (a) sections 14P to 14R,
- (b) sections 14T to 14Y,
- (c) section 14Z1,
- (d) section 14Z3(1), (2), (6) and (7), except insofar as section 14Z3(7) relates to section 14Z9,
- (e) section 14Z8, and section 14Z7(7) insofar as it relates to section 14Z8,
- (f) section 14Z10,
- (g) sections 14Z11 and 14Z12 for the purpose only of a clinical commissioning group preparing a plan for the financial year ending 31st March 2014, and subsequent financial years,
- (h) section 14Z13(1), (2) and (8)(a) and (b),
- (i) sections 14Z17 to 14Z20,
- (j) section 14Z21(1) to (10) and (14),
- (k) section 14Z22 to 14Z24(1), except insofar as the definition of “health services” relates to section 14Z2;

section 27 (financial arrangements for clinical commissioning groups) only insofar as it inserts into the 2006 Act—

- (a) section 223G(3) for the purpose only of notifying a clinical commissioning group of its allotment for the financial year ending 31st March 2014 and subsequent financial years, and section 223G(4) and (5) in relation to any such allotment, and
- (b) section 223I(2), (3) and (6), and section 223I(1) insofar as it relates to those paragraphs;

section 147 (Secretary of State’s duty as respects variation in provision of health services), only insofar as the provisions in sections 6E and 13A of the 2006 Act, and section 75 of the Act, are in force<sup>(a)</sup>;

section 151(1) and (9) (governors);

section 154 (accounts: initial arrangements);

section 158 (voting);

section 164(1) to (3) and (6) (goods and services);

section 165 (private health care);

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(a) See section 306(1) of the Act for the provisions which came into force on the day the Act was passed.

section 181 (Healthwatch England), except for subsection (4) insofar as it inserts the following provisions into the Health and Social Care Act 2008(a)—

- (a) section 45A(2) and (4),
- (b) section 45A(1) insofar as it relates to section 45A(2) or (4),
- (c) section 45C(2)(b), and
- (d) section 45C(4),

and except for subsection (5) insofar as it relates to a function under the provisions inserted by subsection (4);

section 212(1) (abolition of the General Social Care Council);

section 223(3) and (6) (functions of the Professional Standards Authority);

section 281 (abolition of the National Patient Safety Agency);

section 290(1), (2), (3)(a) and (d) and (4) to (8) and 291 (duties to co-operate and breach of such duties);

section 294 (failure to discharge functions by the Care Quality Commission);

sections 295 and 296 (arrangements between the Board and Northern Ireland Ministers and Scottish Ministers) only insofar as it is necessary to enable the Board to prepare itself to exercise functions under those subsections on or after the date on which section 9(1) comes fully into force;

section 298 (advice or assistance to public authorities in the Isle of Man or Channel Islands);

sections 300 to 302 and Schedules 22 and 23 (transfer schemes) insofar as they relate to the Board and a clinical commissioning group;

in Schedule 4 (amendments of the 2006 Act)—

- (a) paragraph 1 insofar as it relates to the Board and clinical commissioning groups,
- (b) paragraphs 6(2)(a) and 7(a),
- (c) paragraph 13,
- (d) paragraph 18(2)(a), (d) and (e), (3), (4)(a) and (6)(a), and paragraph 18(1) insofar as it relates to those provisions,
- (e) paragraph 104(2) and (3)(a), and paragraph 104(1) insofar as it relates to those provisions,
- (f) paragraph 109(a),
- (g) paragraph 110(2)(a) and (3)(a) and paragraph 110(1) insofar as it relates to those provisions,
- (h) paragraph 111(3)(a), (4)(a) and (c) and paragraph 111(1) insofar as it relates to those provisions,
- (i) paragraph 112,
- (j) paragraph 113(a) insofar as it inserts section 217(1)(ea) into the 2006 Act (trusts: supplementary provisions),
- (k) paragraph 115,
- (l) paragraph 117(1),
- (m) paragraph 125(4) to (6),
- (n) paragraph 137,
- (o) paragraph 138(2)(a) and (c), (4) and (5),
- (p) paragraph 139(2), and paragraph 139(1) insofar as it relates to that provision,

and section 55(1) only insofar as it relates to those paragraphs;

in Schedule 5 (amendment of other enactments)—

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(a) 2008 c. 14.

- (a) paragraph 5(a) and (c),
- (b) paragraph 6,
- (c) paragraph 7(b),
- (d) paragraph 8(a)(i) and (b)(i), except insofar as the amendments insert reference to “a local authority”,
- (e) paragraph 10(a)(i) and (b)(i),
- (f) paragraph 12(2)(a), and paragraphs 11 and 12(1) insofar as they relate to that paragraph,
- (g) paragraph 14(a),
- (h) paragraph 20(c),
- (i) paragraph 22(a) and 23(b), and paragraph 21 insofar as it relates to those paragraphs,
- (j) paragraph 44(a),
- (k) paragraph 68(c), and paragraph 67 insofar as it relates to that paragraph,
- (l) paragraph 74(a) and 75(a), and paragraph 72 insofar as it relates to those paragraphs,
- (m) paragraph 76(a),
- (n) paragraph 96,
- (o) paragraph 99(b),
- (p) paragraph 100(a),
- (q) paragraph 147(a) and (b)(i),
- (r) paragraph 175(3)(c) only insofar as it inserts subsection (2)(ca) and (cb) into section 2 of the Health Act 2009(a), and paragraphs 173 and 175(1) only insofar as they relate to that paragraph,
- (s) paragraph 182(a), and paragraph 180 insofar as it relates to that paragraph, and
- (t) paragraph 184(c),

and section 55(2) only insofar as it relates to those paragraphs;  
in Schedule 6—

- (a) paragraph 1,
- (b) paragraph 2(2),
- (c) paragraphs 3 to 13, and section 26 insofar as it inserts section 14Z4(1), 14Z5(2) and 14Z7(7) into the 2006 Act for the purpose of paragraph 11(2) of Schedule 6 only,

and section 55(3) insofar as it relates to those paragraphs.

(3) 31st October 2012 is the day appointed for the coming into force of section 279 of, and Part 2 of Schedule 20 to, the Act.

**Transitory modifications in respect of the commencement of section 9 of the Act (the National Health Service Commissioning Board)**

3.—(1) Until sections 11, 12, 17(2) to (9), (12) and (13) and section 29(2) of the Act come into force, in section 1H(2) of the 2006 Act the words “except in relation to that part of the health service that is provided in pursuance of the public health functions of the Secretary of State or local authorities” are to be read as “except in relation to that part of the health service which is provided for the purpose of protecting the public in England from disease or other dangers to health, or which is provided for the purpose of improving public health.”

(2) Until the end of the initial period, paragraph 16(2)(b) of Schedule A1 to the 2006 Act (annual accounts)(b) is to be read as if the words “and the annual accounts of each clinical commissioning group” were omitted.

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(a) 2009 c. 21.

(b) Schedule A1 is inserted into the National Health Service Act 2006 (c. 41) by section 9(2) of, and Schedule 1 to, the Act.

(3) Until section 9(2) of, and Schedule 1 to, the Act come fully into force, paragraph 15(3) of Schedule A1 to the 2006 Act (accounts) is to be read as if the words “and any interim accounts prepared by virtue of paragraph 17” were omitted.

**Transitory modifications in respect of the commencement of section 23 of the Act (the National Health Service Commissioning Board: further provision)**

4.—(1) For the purpose only of the mandate to the Board for the financial year ending 31st March 2014, the requirement in section 13A(8)(b) of the 2006 Act to consult Healthwatch England does not apply.

(2) For the purpose only of the annual report of the Board for the financial year ending 31st March 2013, the requirements in section 13U(2) and (5) do not apply.

**Transitional provision in respect of the commencement of section 25 of the Act (clinical commissioning groups: establishment etc.)**

5. Where an application has been made to the Board Authority before 1st October 2012 for establishment as a clinical commissioning group, that application must, from that date, be treated as an application to the Board under section 14B of the 2006 Act (applications for the establishment of clinical commissioning groups) if that application meets the requirements of that section.

**Transitory modifications in respect of the commencement of section 26 of the Act (clinical commissioning groups: general duties etc.)**

6.—(1) Until section 194(1) of the Act (establishment of Health and Wellbeing Boards) comes into force—

- (a) section 14Z11(6) and (9),
- (b) section 14Z12(2)(b) insofar as it applies section 14Z11(6), and
- (c) section 14Z12(3)(b),

of the 2006 Act do not apply.

(2) Until section 13 of the Act (duties of clinical commissioning groups as to commissioning certain health services) comes into force, section 14Z13(2) is to be read as if the reference to “individuals for whom it has responsibility for the purposes of section 3” is a reference to—

- “(a) individuals who are provided with primary medical services by a member of the group; and
- (b) individuals who usually reside in the group’s area and are not provided with primary medical services by a member of any clinical commissioning group.”

**Transitory modification in respect of the commencement of section 181 of the Act (Healthwatch England)**

7. Until section 183 of the Act (local authority arrangements) comes into force, in section 45A(5)(b) of the Health and Social Care Act 2008(a), the reference to “the views of Local Healthwatch organisations and of other persons” is to be read as a reference to “the views of persons”.

**Transitory modification in respect of the commencement of section 223 of the Act (functions of the Professional Standards Authority)**

8. From 1st October 2012 until section 222 of the Act (the Professional Standards Authority for Health and Social Care) comes into force, the references to the Professional Standards Authority

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(a) 2008 c. 14.

for Health and Social Care in section 26A(1A) of the National Health Service Reform and Health Care Professions Act 2002 (powers of the Secretary of State etc. to request the Authority for advice)(a) are to be read as references to the Council for Healthcare Regulatory Excellence.

**Transitory provision in respect of the commencement of Schedule 2 to the Act (clinical commissioning groups)**

9. Notwithstanding the commencement of Schedule 2 to the Act in article 2(2), paragraph 17(1) and (2) of Schedule 1A to the 2006 Act (accounts and audits) do not apply to a clinical commissioning group in the initial period.

**Saving provision and transitory modification in relation to the commencement of paragraph 1 of Schedule 4 to the Act (amendments of the 2006 Act)**

10.—(1) Notwithstanding the commencement in part of paragraph 1 of Schedule 4 to the Act (amendments of the 2006 Act) by article 2(2) the power of the Secretary of State under section 2 of the 2006 Act (Secretary of State’s general power) prior to any amendment made by that paragraph, is to continue until paragraph 1 of Schedule 4 comes fully into force.

(2) Until the commencement of section 34 of the Act (abolition of Primary Care Trusts)—

(a) the power of a clinical commissioning group under section 2 of the 2006 Act (general power) does not include the power to—

(i) enter into a commissioning contract, or any other contract,

(ii) acquire and dispose of property, or

(iii) accept gifts (including property to be held on trust for the purposes of the clinical commissioning group); and

(b) the power of the Board under section 2 of the 2006 Act does not include the power to enter into a commissioning contract.

(3) In this article “commissioning contract” means a contract entered into by the Board or (as the case may be) clinical commissioning groups in arranging for the provision of services as part of the health service.

**Saving provisions in respect of the commencement of paragraph 125 of Schedule 4 to the Act and paragraph 96 of Schedule 5 to the Act (amendment of the Government Resources and Accounts Act 2000)**

11.—(1) Notwithstanding the commencement of paragraph 125(4) to (6) of Schedule 4 to the Act by article 2(2), paragraphs 7 to 9 of Schedule 15 to the 2006 Act apply to the accounts of the bodies specified in those paragraphs in respect of any financial year up to and including the financial year ending 31st March 2012 as if the amendments made by paragraph 125(4) to (6) of Schedule 4 to the Act were not in force.

(2) Notwithstanding the commencement of paragraph 96 of Schedule 5 to the Act by article 2(2), section 14 of the Government Resources and Accounts Act 2000 (summarised accounts)(b) applies in respect of accounts relating to any financial year up to and including the financial year ending 31st March 2012 as if the amendments made by paragraph 96 of Schedule 5 to the Act were not in force.

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(a) 2002 c. 17. Section 26A(1A) was inserted by section 223(3) of the Act.

(b) 2000 c. 20.



**Transitory modification in respect of the commencement of paragraph 137 of Schedule 4 to the Act (amendments of the 2006 Act)**

12. Until the commencement of section 33 of the Act (abolition of Strategic Health Authorities), section 273 of the 2006 Act (further provision about orders and directions under the Act) must be read as if—

- (a) in subsection (3), “by a Strategic Health Authority or” were inserted after “this Act”; and
- (b) in subsection (4)(c)(ii), “15,” were inserted after “13Z1,”.

**Transitory modifications in respect of the commencement of paragraph 138(2)(c) of Schedule 4 to the Act**

13.—(1) Until the commencement of section 33 of the Act (abolition of Strategic Health Authorities) the definition of “NHS body” in section 275(1) of the 2006 Act (interpretation) is to be read as if it included a reference to a Strategic Health Authority.

(2) Until the commencement of section 34 of the Act (abolition of Primary Care Trusts) the definition of “NHS body” in section 275(1) of the 2006 Act is to be read as if it included a reference to a Primary Care Trust.

(3) Until section 9(1) of the Act (the NHS Commissioning Board) comes fully into force, a reference to “NHS body” or “NHS bodies” in the provisions of the 2006 Act specified in paragraph (5) is to be read as if it does not include a reference to the Board.

(4) Until section 10 of the Act (clinical commissioning groups) comes fully into force, a reference to “NHS body” or “NHS bodies” in the provisions of the 2006 Act specified in paragraph (5) is to be read as if it does not include a reference to a clinical commissioning group.

(5) The provisions specified for the purposes of paragraphs (3) and (4) are—

- (a) section 66;
- (b) section 68;
- (c) section 244;
- (d) section 249;
- (e) section 256;
- (f) section 258; and
- (g) paragraph 29 of Schedule 4.

**Transitory modifications in respect of the commencement of paragraph 6 of Schedule 5 to the Act (Public Records Act 1958 (c. 51))**

14.—(1) Until section 23 of the Act (the NHS Commissioning Board: further provision) is commenced in full, Schedule 1 to the Public Records Act 1958(a) is to be read as if the reference to “and section 13X” in the second column of the first entry to the Department of Health in paragraph 3(2) in the Table is omitted.

(2) Until section 25(2) of, and Schedule 2, to the Act (clinical commissioning groups) are commenced in full, Schedule 1 to the Public Records Act 1958 is to be read as if the reference to “, or paragraph 20 of Schedule 1A to” in the second column of the first entry to the Department of Health in paragraph 3(2) in the Table is omitted.

Signed by authority of the Secretary of State for Health.

*Simon Burns*  
Minister of State,  
Department of Health

11th July 2012

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(a) 1958 c. 51.



## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Health and Social Care Act 2012 (c. 7) (“the Act”). It is the second Commencement Order to be made under the Act. This Order also contains transitional, savings and transitory provisions in relation to the provisions of the Act being brought into force by this Order.

Article 2(2) brings into force the following provisions of the Act on 1st October 2012—

- (a) section 1 (in part) which, insofar as is relevant to this Order, amends section 1 of the National Health Service Act 2006 (“the 2006 Act”) in relation to the duty of the National Health Service Commissioning Board (“the Board”) as regards the comprehensive health service;
- (b) section 9 (in part) and Schedule 1 (in part) which amend the 2006 Act to provide for the establishment of the Board and as to its functions;
- (c) section 10 (in part) which amends the 2006 Act to provide for clinical commissioning groups to be established as bodies corporate and as to their general functions;
- (d) section 23 (in part) which amends the 2006 Act to make further provision in relation to the Board, including as to the Secretary of State’s mandate to the Board and duties of the Board in exercising its functions;
- (e) section 24 (in part) which, insofar as is relevant to this Order, amends the 2006 Act to make provision as to the Secretary of State’s power to allot an amount of money to the Board in respect of a financial year by giving notice to the Board in writing;
- (f) section 25 (in part) and Schedule 2 (in part), which amend the 2006 Act to provide for the process of establishing clinical commissioning groups by the Board, and for the functions of clinical commissioning groups;
- (g) section 26 (in part) which amends the 2006 Act to make further provision in relation to clinical commissioning groups, including as to the duties of a clinical commissioning group in exercising its functions;
- (h) section 27 (in part) which, insofar as is relevant to this Order, amends the 2006 Act to make provision as to the Board’s power to allot an amount of money to a clinical commissioning group in respect of a financial year by giving notice to a clinical commissioning group in writing.

These provisions are commenced on 1st October 2012 in order to establish the Board and to confer on it the necessary powers and duties to enable the Board to prepare itself for exercising its full functions in relation to the health service when the provisions of the Act relating to it come fully into force. In particular the commencement of these provisions will enable the Board to determine applications for the establishment of clinical commissioning groups from 1st October 2012. The commencement of these provisions will also confer on a clinical commissioning group the powers and duties necessary to enable it to prepare for exercising its full functions in relation to the health service when the provisions of the Act relating to clinical commissioning groups come fully into force. In relation to both the Board and clinical commissioning groups, it is envisaged that the provisions of the Act relating to them will come fully into force on 1st April 2013.

Article 2(2) also commences the following provisions of the Act on 1st October 2012—

- (a) section 17(13) which amends the 2006 Act to confer powers on the Board in relation to research, the obtaining and analysis of data and the obtaining of advice from persons with appropriate professional expertise;
- (b) section 21 which amends the Secretary of State’s powers of direction in relation to Special Health Authorities in section 7 of the 2006 Act;
- (c) section 22 (in part) which, insofar as it is commenced by this Order, amends the 2006 Act to give the Secretary of State the power to make arrangements with the Board or a clinical

- commissioning group as to the exercise of the Secretary of State's public health functions;
- (d) section 147 (in part) which amends the 2006 Act to impose a duty on the Secretary of State as respects variation in provision of health services;
  - (e) section 151(1) and (9) which makes consequential amendments to the 2006 Act to rename the board of governors of NHS foundation trusts as the "council of governors";
  - (f) section 154 which amends provisions in Schedule 7 to the 2006 Act to make changes to the accounting requirements of NHS foundation trusts;
  - (g) section 158 which amends Schedule 7 to the 2006 Act to provide for a new regulation-making power to alter the voting arrangements for directors, governors and members of NHS foundation trusts;
  - (h) section 164(1) to (3) and (6) which amends section 43 of the 2006 Act on authorised services of NHS foundation trusts to remove references to ongoing terms of authorisation and makes provision for safeguards as a result of the amendments made by section 165 of the Act;
  - (i) section 165 which amends the 2006 Act to remove the restriction on the amount of income an NHS foundation trust can derive from private charges;
  - (j) section 181 (in part) which amends the Health and Social Care Act 2008 (c. 14) in relation to the establishment of Healthwatch England as a statutory committee of the Care Quality Commission;
  - (k) section 212(1) which provides for the abolition of the General Social Care Council;
  - (l) section 223(3) and (6) which amends the National Health Service Reform and Health Care Professions Act 2002 (c. 17) as regards the functions of the Professional Standards Authority;
  - (m) section 281 which provides for the abolition of the National Patient Safety Agency;
  - (n) section 290 (in part) and section 291 which provide for a duty to co-operate between Monitor, the Care Quality Commission and other bodies in the exercise of their respective functions, and makes provision for where there is a breach of such a duty;
  - (o) section 294 which amends the power the Secretary of State has under section 82 of the Health and Social Care Act 2008 to direct the Care Quality Commission when he considers that it is failing, or has failed, to perform its functions;
  - (p) sections 295 and 296 (in part) which make provision for arrangements between the Board and Northern Ireland Ministers and Scottish Ministers;
  - (q) section 298 which concerns the provision by the Board or a clinical commissioning group of advice or assistance to any public authority in the Isle of Man or Channel Islands;
  - (r) sections 300 to 302 and Schedules 22 and 23 (in part) which together make provision in relation to the making of transfer schemes by the Secretary of State to transfer property, rights and liabilities from one body to another, in connection with the establishment, modification or abolition of a body by the Act;
  - (s) Schedule 4 and section 55(1) (in part) which together make consequential amendments to the 2006 Act in relation to the establishment of the Board and clinical commissioning groups;
  - (t) Schedule 5 and section 55(2) (in part) which together make consequential amendments to other enactments in relation to the establishment of the Board and clinical commissioning groups;
  - (u) Schedule 6 and section 55(3) (in part) which together make transitional provision, primarily in respect of the establishment of clinical commissioning groups and the exercise of functions by them and in relation to them during an initial period following their establishment.

Article 2(3) commences on 31st October 2012 section 279 of, and Part 2 of Schedule 20 to, the Act which together provide for the abolition of the Appointments Commission and for consequential amendments and savings as a result of that abolition.

Article 3(1) and (3) makes transitory modifications in relation to the commencement of section 9 of the Act to modify references to provisions in the 2006 Act which have not yet been brought into force until such time as they are brought into force. Article 3(2) makes a transitory modification in relation to paragraph 16(2)(b) of Schedule A1 to the 2006 Act, which is inserted by section 9 of the Act, to ensure that where the Board has to produce consolidated annual accounts, it will not need to include the accounts of a clinical commissioning groups until the end of the initial period during which clinical commissioning groups will not be required to produce accounts by virtue of article 9.

Article 4(1) makes a transitory modification in respect of section 23 of the Act. Section 13A(8) of the 2006 Act, which is inserted by section 23 of the Act, is modified to ensure that the Secretary of State's duty to consult Healthwatch England before specifying any objectives or requirements in the mandate to the Board does not apply in relation to the first mandate: this is because Healthwatch England will not be established until 1st October 2012 by which time the first mandate to the Board will need to have been finalised (as the Board is also established on that date). Article 4(2) makes a transitory modification in respect of section 13U of the 2006 Act, which is inserted by section 23 of the Act, to modify requirements as to the content of the first annual report the Board will produce to reflect the fact that it will not be undertaking its full functions during the first financial year in which it is established.

Article 5 makes transitional provision in respect of the commencement of section 25 of the Act. The modification ensures that any applications for establishment as a clinical commissioning group that have been made before 1st October 2012 to the NHS Commissioning Board Authority, a Special Health Authority established under the NHS Commissioning Board Authority (Establishment and Constitution) Order 2011 (S.I. 2011/2237), are treated as applications to the Board. The modification only applies if the application meets the requirements in section 14B of the 2006 Act (which is inserted by section 25 of the Act). The NHS Commissioning Board Authority will be abolished on 1st October 2012 under article 3 of the NHS Commissioning Board Authority (Abolition and Transfer of Staff, Property and Liabilities) and the Health and Social Care Act 2012 (Consequential Amendments) Order 2012 (S.I. 2012/1641).

Article 6(1) makes transitory modification in respect of the commencement of section 26 of the Act. It modifies the duty of clinical commissioning groups in relation to their commissioning plans to ensure that obligations relating to Health and Wellbeing Boards do not apply until such time as the provisions in the Act that establish Health and Wellbeing Boards are commenced. Article 6(2) modifies the duty of a clinical commissioning group to consult persons for whom it has responsibility under section 3 of the 2006 Act as regards its commissioning plan until section 13 of the Act, which makes the relevant changes to section 3 of the 2006 Act, is in force.

Article 7 makes transitory modification in respect of the commencement of section 181 of the Act (which relates to the establishment of Healthwatch England) to modify references in the Health and Social Care Act 2008 (which is amended by section 181 of the Act) to Local Healthwatch organisations pending the coming into force of section 183 of the Act which makes provision for such organisations.

Article 8 makes a transitory modification of section 26A(1A) of the National Health Service Reform and Health Care Professions Act 2002 (which is inserted by the commencement of section 223 of the Act) to provide that until section 222 of the Act comes into force any reference to the Professional Standards Authority for Health and Social Care is to be read as a reference to that body by its existing name (the Council for Health Care Regulatory Excellence). Section 222(1)(b) changes the body's name.

Article 9 makes transitory provision in relation to the commencement of Schedule 2 to the Act: the transitory provision relates to paragraph 17(1) and (2) of Schedule 1A to the 2006 Act which is inserted by Schedule 2 to the Act. The provision ensures that a clinical commissioning group will

not be subject to the requirement in paragraph 17(1) and (2) to keep proper accounts and prepare annual accounts in the financial year ending 31st March 2013.

Article 10(1) makes a saving provision in respect of the commencement in part of paragraph 1 of Schedule 4 to the Act to preserve the Secretary of State's general powers in relation to the health service under section 2 of the 2006 Act pending that paragraph coming fully into force. Article 10(2) makes a transitory modification to limit the powers of the Board and clinical commissioning groups under section 2 of the 2006 Act, as amended by paragraph 1 of Schedule 4 to the Act.

Article 11 makes saving provisions in respect of the commencement of paragraph 125 of Schedule 4 to the Act (which amends Schedule 15 to the 2006 Act relating to accounts and audits) and paragraph 96 of Schedule 5 to the Act (which amends the Government Resources and Accounts Act 2000 (c. 20)) to ensure the continued application of provisions prior to the amendments made by the Act as regards the accounts of NHS bodies in relation to the financial years up to and including the one ending 31st March 2012.

Article 12 makes a transitory modification in respect of the commencement of paragraph 137 of Schedule 4 to the Act to preserve powers of direction in section 273 of the 2006 Act in relation to Strategic Health Authorities pending the commencement of section 33 of the Act (abolition of Strategic Health Authorities).

Article 13 makes transitory modification in respect of the commencement of paragraph 138(2)(c) of Schedule 4 to the Act. Paragraph 138(2)(c) amends section 275(1) of the 2006 Act to insert a new definition of "NHS body". Until the abolition of Primary Care Trusts and Strategic Health Authorities, the definition of "NHS body" needs to include reference to those bodies: furthermore some of the references to "NHS body" in the 2006 Act do not need to include a reference to the Board or a clinical commissioning group until that abolition, so article 13 makes provision for both of these matters.

Article 14 makes transitory modifications to amendments made to the Public Records Act 1958 (c. 51) to omit references to section 13X of the 2006 Act and paragraph 20 of Schedule 1A to the 2006 Act pending the coming into force of the provisions of the Act that insert them into the 2006 Act.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 8	1 <sup>st</sup> June 2012	S.I. 2012/1319
Section 39	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 42	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 44	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 55(1) and (3) (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 59	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 61(1)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 64 (partially)	1 <sup>st</sup> June 2012	S.I. 2012/1319
Section 64 (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 79	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 150(5) (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 160	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 201	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 207(8) and (10)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Sections 209 to 211	1 <sup>st</sup> August 2012	S.I. 2012/1319
Section 212(2) and (3)	1 <sup>st</sup> August 2012	S.I. 2012/1319
Sections 213 to 218	1 <sup>st</sup> August 2012	S.I. 2012/1319
Sections 220 and 221	1 <sup>st</sup> August 2012	S.I. 2012/1319
Section 223(1), (2), (5), (9), (10) and (14)	1 <sup>st</sup> August 2012	S.I. 2012/1319

Section 227	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 230 (partially)	1 <sup>st</sup> August 2012	S.I. 2012/1319
Section 231	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 278	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 283	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 288(1) and (2)(a)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 289 (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Section 299	1 <sup>st</sup> June 2012	S.I. 2012/1319
Sections 300 to 302 (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Schedule 4, paragraphs 112 and 115	1 <sup>st</sup> July 2012	S.I. 2012/1319
Schedule 6, paragraphs 1 and 2 (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319
Schedule 13, paragraphs 1 to 7, 8 (partially), 9 (partially), 11 to 13 and 18 and 19	1 <sup>st</sup> July 2012	S.I. 2012/1319
Schedule 15, Parts 1 and 2	1 <sup>st</sup> August 2012	S.I. 2012/1319
Schedule 15, Part 4	1 <sup>st</sup> July 2012	S.I. 2012/1319
Schedule 20, Part 1	1 <sup>st</sup> July 2012	S.I. 2012/1319
Schedules 22 and 23 (partially)	1 <sup>st</sup> July 2012	S.I. 2012/1319

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STATUTORY INSTRUMENTS

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**2012 No. 1831 (C. 71)**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**NATIONAL HEALTH SERVICE, ENGLAND**

**PUBLIC HEALTH**

**SOCIAL CARE**

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and Transitional, Savings and Transitory Provisions) Order 2012

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