

Health and Care Bill

COMMONS INSISTENCE, DISAGREEMENT, AMENDMENTS IN LIEU AND REASONS

[The page and line references are to HL Bill 71, the bill as first printed for the Lords]

Clause 35

LORDS AMENDMENT 29

29 Page 42, leave out lines 14 to 19 and insert –

- “(1) The Secretary of State must, at least once every two years, lay a report before Parliament describing the system in place for assessing and meeting the workforce needs of the health, social care and public health services in England.
- (2) This report must include –
 - (a) an independently verified assessment of health, social care and public health workforce numbers, current at the time of publication, and the projected workforce supply for the following five, ten and 20 years; and
 - (b) an independently verified assessment of future health, social care and public health workforce numbers based on the projected health and care needs of the population for the following five, ten and 20 years, taking account of the Office for Budget Responsibility long-term fiscal projections.
- (3) NHS England and Health Education England must assist in the preparation of a report under this section.
- (4) The organisations listed in subsection (3) must consult health and care employers, providers, trade unions, Royal Colleges, universities and any other persons deemed necessary for the preparation of this report, taking full account of workforce intelligence, evidence and plans provided by local organisations and partners of integrated care boards.”

COMMONS REASON

The Commons disagree to Lords Amendment 29 for the following Reason –

- 29A** *Because there is already a clause in the Bill about reporting in relation to workforce and it is not necessary to impose further or different reporting duties on that topic.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 29, to which the Commons have disagreed for their Reason 29A, and propose Amendment 29B in lieu –

- 29B** Page 42, leave out lines 14 to 19 and insert –

- “(1) The Secretary of State must, at least once every three years, lay a report before Parliament describing the system in place for assessing and meeting the workforce needs of the health, social care and public health services in England.
- (2) This report must include –
- (a) an independent assessment of health and social care workforce numbers, current at the time of publication, and the projected workforce supply for the following five, ten and 15 years, and
 - (b) an independent assessment of future health and social care workforce numbers based on the projected health and care needs of the population for the following five, ten and 15 years, taking account of the Office for Budget Responsibility long-term fiscal projections.
- (3) NHS England and Health Education England must assist in the preparation of a report under this section.
- (4) The organisations listed in subsection (3) must consult health and care employers, providers, trade unions, Royal Colleges, universities and any other persons deemed necessary for the preparation of this report, taking full account of workforce intelligence, evidence and plans provided by local organisations and partners of integrated care boards.”

COMMONS REASON

The Commons disagree to Lords Amendment 29B for the following Reason –

- 29C** *Because there is already a clause in the Bill about reporting in relation to workforce and it is not necessary to impose further or different reporting duties on that topic.*

Clause 40 and Schedule 6

LORDS AMENDMENTS 30 AND 108

- 30** Leave out Clause 40

COMMONS REASON

The Commons disagree to Lords Amendment 30 for the following Reason –

30A *Because it is appropriate for the Secretary of State to have greater powers to scrutinise and intervene in NHS reconfigurations given the Secretary of State's accountability to Parliament in relation to these matters.*

108 Leave out Schedule 6

COMMONS REASON

The Commons disagree to Lords Amendment 108 for the following Reason –

108A *Because it is appropriate for the Secretary of State to have greater powers to scrutinise and intervene in NHS reconfigurations given the Secretary of State's accountability to Parliament in relation to these matters.*

LORDS NON-INSISTENCE AND AMENDMENTS TO THE WORDS SO RESTORED TO THE BILL

The Lords do not insist on their Amendments 30 and 108, to which the Commons have disagreed for their Reasons 30A and 108A, and propose Amendments 30B and 108B to the words so restored to the Bill –

30B Clause 40, page 48, line 42, at end insert –

“(1A) In section 272(6) of that Act (regulations), omit the “or” at the end of paragraph (b) and after paragraph (c) insert “or

“(d) regulations under paragraph 6A of Schedule 10A.””

108B Schedule 6, page 198, line 34, at end insert –

“6A (1) A direction under this Schedule may only be given if made in regulations.

(2) No direction may be given under this Schedule unless the Secretary of State has reasonable grounds to believe that the proposal for reconfiguration would be in the best interests of patients.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendments 30B and 108B but propose amendments 30C, 30D, 30E, 30F, 30G, 30H, 30I, 30J and 30K as amendments in lieu –

30C Page 197, line 27, after “a” insert “notifiable”

30D Page 197, line 28, at end insert –

“(2) For the purposes of this paragraph a reconfiguration of NHS services is “notifiable” if it is of a description specified in regulations.”

30E Page 197, leave out lines 29 to 33

30F Page 198, line 3, after “may” insert “, within the period of 6 months beginning with the date of the direction,”

30G Page 198, line 17, at end insert –

“(3A) The Secretary of State must, before acting under sub-paragraph (2), give each of the following an opportunity to make representations to the Secretary of State in relation to the proposal –

(a) the NHS commissioning body,

- (b) if the NHS commissioning body is an integrated care board, NHS England,
 - (c) each local authority (within the meaning of section 2B) to whose area the proposed reconfiguration of NHS services relates, and
 - (d) any other person that the Secretary of State considers appropriate.”
- 30H** Page 198, line 19, after “(2)(a)” insert “together with an explanation of the reasons for taking it”
- 30I** Page 198, line 20, at end insert “and the reasons”
- 30J** Page 198, line 20, at end insert –
“(5) The Secretary of State must publish a summary of any representations made under sub-paragraph (3A).”
- 30K** Page 198, line 34, at end insert –
“(2) The Secretary of State must publish any direction under this paragraph, together with an explanation of the reasons for giving it.”

After Clause 71

LORDS AMENDMENT 48

- 48** Insert the following new Clause –
- “Health service procurement and supply chains: genocide convention obligations**
- (1) The Secretary of State must by regulations make provision for the purposes of ensuring that procurement of all goods and services for the purposes of the health service in England is consistent with the United Kingdom’s obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.
 - (2) For the purposes of subsection (1), procurement is not consistent if a Minister of the Crown has assessed that there is a serious risk of genocide in the sourcing region.
 - (3) A Minister of the Crown must make an assessment as to whether there is serious risk if the chair of a relevant select committee of either House of Parliament requests one, and must complete such assessment within two months.”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 48 but propose Amendment 48A as an amendment in lieu –

- 48A** Page 49, line 3, at end insert the following new Clause –
- “Review into NHS supply chains**
- (1) The Secretary of State must carry out a review into the risk of slavery and human trafficking taking place in relation to people involved in NHS supply chains.

- (2) The Secretary of State may determine which NHS supply chains to consider as part of the review or otherwise limit the scope of the review.
- (3) But the review must at least consider a significant proportion of NHS supply chains for cotton-based products in relation to which companies formed under section 223 of the National Health Service Act 2006 (taken as a whole) exercise functions.
- (4) The Secretary of State must publish and lay before Parliament a report on the outcome of the review before the end of the period of 18 months beginning with the day on which this section comes into force.
- (5) The report must describe—
 - (a) the scope of the review, and
 - (b) the methodology used in carrying out the review.
- (6) The report must include any views of the Secretary of State as to steps that should be taken to mitigate the risk mentioned in subsection (1).
- (7) NHS England must assist in the carrying out of the review or the preparation of the report under this section, if requested to do so by the Secretary of State.
- (8) In this section—
 - “health service in England” means the health service continued under section 1(1) of the National Health Service Act 2006;
 - “NHS supply chain” means the supply chain for providing goods or services for the purposes of the health service in England;
 - “slavery and human trafficking” has the meaning given by section 54(12) of the Modern Slavery Act 2015.”

LORDS NON-INSISTENCE, AGREEMENT AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 48, agree with the Commons in their Amendment 48A in lieu, and propose Amendment 48B in lieu –

48B After Clause 40, insert the following new Clause –

“Health service procurement and supply chains: modern slavery

The Secretary of State must by regulations make provision for the purposes of ensuring that procurement of all goods and services for the purposes of the health service in England avoids modern slavery.”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 48B but propose Amendment 48C as an amendment in lieu –

48C Page 64, line 38, at end insert the following new Clause –

“Eradicating slavery and human trafficking in supply chains

- (1) The National Health Service Act 2006 is amended as follows.

(2) After section 12ZB insert –

“12ZC Eradicating slavery and human trafficking in supply chains

(1) The Secretary of State must by regulations make such provision as the Secretary of State thinks appropriate with a view to eradicating the use in the health service in England of goods or services that are tainted by slavery and human trafficking.

(2) The regulations may, in particular, include –

- (a) provision in connection with the processes to be followed by public bodies in the procurement of goods or services for the purposes of the health service in England (including provision as to circumstances in which a supplier is excluded from consideration for the award of a contract);
- (b) provision as to steps that must be taken by public bodies for assessing and addressing the risk of slavery and human trafficking taking place in relation to people involved in health service supply chains;
- (c) provision as to matters for which provision must be made in contracts for goods or services entered into by public bodies for the purposes of the health service in England.

(3) In this section –

“health service supply chains” means supply chains for providing goods or services for the purposes of the health service in England;

“public body” means a body exercising functions of a public nature;

“slavery and human trafficking” has the meaning given by section 54(12) of the Modern Slavery Act 2015;

“tainted”: goods or services are “tainted” by slavery and human trafficking if slavery and human trafficking takes place in relation to anyone involved in the supply chain for providing those goods or services.”

(3) In section 272 (orders, regulations, rules and directions), in subsection (6), after paragraph (zze), insert –

“(zzf) regulations under section 12ZC;”.

Clause 140

LORDS AMENDMENT 80

80 Leave out Clause 140

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 80 but propose Amendments 80A to 80N as amendments in lieu –

80A Page 116, line 41, leave out from beginning to end of line 9 on page 117 and insert –
 “(a) in relation to eligible needs met by a local authority, to any amount the local authority charged the adult under section 14(1)(a) or 48(5) for meeting those needs;

- (b) in relation to eligible needs met by a person other than a local authority, to what the cost of meeting those eligible needs would have been to the local authority that was the responsible local authority when the needs were met.”
- 80B** Page 117, leave out lines 13 and 14 and insert “at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult”
- 80C** Page 117, line 25, after “Where” insert “, following a determination under section 13(1),”
- 80D** Page 117, leave out lines 30 to 32 and insert –
“(b) the adult has at any time either –
(i) asked a local authority that was, at that time, the responsible local authority, to prepare an independent personal budget, or
(ii) had needs met by a local authority as mentioned in section 24(1).”
- 80E** Page 117, leave out lines 37 to 42 and insert –
“(a) the current cost to the local authority of meeting those needs,
(b) how much of that cost the adult will be required to pay under section 14(1)(a), and
(c) the balance, if any, of the cost referred to in paragraph (a).”
- 80F** Page 117, leave out lines 45 to 48 and insert –
“(a) the current cost to the local authority of meeting those eligible needs,
(b) how much of that cost the adult will be required to pay under section 14(1)(a), and”
- 80G** Page 118, line 3, after “adult” insert “has needs which a local authority is required or decides to meet as mentioned in section 24(1) and”
- 80H** Page 118, leave out lines 5 and 6 and insert –
“(a) what the current cost would be to the responsible local authority of meeting those eligible needs, and”
- 80I** Page 118, leave out lines 9 to 13
- 80J** Page 118, line 17, leave out from beginning to “(but” in line 18 and insert “what the current cost would be to the responsible local authority of meeting the adult’s eligible needs”
- 80K** Page 118, line 21, after “authority” insert “or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)”
- 80L** Page 118, line 22, leave out paragraph (b)
- 80M** Page 118, line 32, leave out subsections (7) and (8) and insert –
“(7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute –
“(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”

- (8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
 “(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

80N Clause 153, page 129, line 14, at end insert—

- “(5A) In relation to section (cap on care costs for charging purposes), different days may be appointed under subsection (4) for different areas.”

LORDS INSISTENCE, DISAGREEMENT AND AMENDMENTS INSTEAD OF THE WORDS
 SO LEFT OUT OF THE BILL

The Lords insist on their Amendment 80, disagree with the Commons in their Amendments 80A to 80N in lieu, and propose Amendments 80P and 80Q instead of the words so left out of the Bill—

80P After Clause 139, insert the following new Clause—

“Cap on care costs for charging purposes

- (1) The Secretary of State may by regulations amend the Care Act 2014 as regards how “costs accrued in meeting eligible needs” for the purposes of section 15 of that Act are to be determined.
- (2) The regulations must ensure that any costs incurred by any local authority to meet eligible needs are included within that determination.
- (3) The regulations are to have effect in accordance with a timetable specified in the regulations.
- (4) The regulations may not be made unless—
 - (a) the results of the Trailblazer pilot schemes have been evaluated, and the Secretary of State has laid that evaluation before Parliament, and
 - (b) the Secretary of State has completed a further general impact assessment covering distributional regional analysis, regional eligibility, and the effect of the care cap on disabled adults under 40.
- (5) The regulations must ensure that no charges may be imposed under section 14 for any adult under the age of 40 with a disability.”

80Q Clause 150, page 128, line 20, at end insert—

- “(ca) regulations under section (*Cap on care costs for charging purposes*);”

COMMONS INSISTENCE AND DISAGREEMENT

The Commons insist on their disagreement to Lords Amendment 80, insist on their Amendments 80A to 80N in lieu and disagree with the Lords in their Amendments 80P and 80Q instead of the words left out of the Bill by Lords Amendment 80 for the following Reason—

80R *Because the Lords amendments and the disagreements by the Lords to Commons amendments could affect financial arrangements to be made by the Commons, and the Commons do not offer any further reason, trusting that this Reason may be deemed sufficient.*

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