



National Health Service Act 2006

2006 CHAPTER 41

PART 1

PROMOTION AND PROVISION OF THE HEALTH SERVICE IN ENGLAND

f¹Regulations as to the exercise of functions

Textual Amendments

- F1** S. 6C and cross-heading inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 18(1)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

6C Regulations as to the exercise by local authorities of certain public health functions

- (1) Regulations may require a local authority to exercise any of the public health functions of the Secretary of State (so far as relating to the health of the public in the authority's area) by taking such steps as may be prescribed.
- (2) Regulations may require a local authority to exercise its public health functions by taking such steps as may be prescribed.
- (3) Where regulations under subsection (1) require a local authority to exercise any of the public health functions of the Secretary of State, the regulations may also authorise or require the local authority to exercise any prescribed functions of the Secretary of State that are exercisable in connection with those functions (including the powers conferred by section 12).
- (4) The making of regulations under subsection (1) does not prevent the Secretary of State from taking any step that a local authority is required to take under the regulations.

Changes to legislation: National Health Service Act 2006, Cross Heading: Regulations as to the exercise of functions is up to date with all changes known to be in force on or before 19 April 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) View outstanding changes

- (5) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a local authority of any of its functions under regulations under subsection (1) are enforceable by or against the local authority (and no other person).
- (6) In this section, “local authority” has the same meaning as in section 2B.]

Modifications etc. (not altering text)

- C1 S. 6C(2) applied (with modifications) (30.11.2017) by [The Greater Manchester Combined Authority \(Public Health Functions\) Order 2017 \(S.I. 2017/1180\)](#), arts. 1, 4

^{F2}6D Regulations relating to EU obligations

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Textual Amendments

- F2 S. 6D omitted (31.12.2020) by virtue of [The National Health Service \(Cross-Border Healthcare and Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/777\)](#), regs. 1(1), 3(e) (with reg. 15, Sch. 1) (as amended by [S.I. 2020/1348](#), regs. 10-12); 2020 c. 1, Sch. 5 para. 1(1)

^{F3}6E Regulations as to the exercise of functions by ^{F4}NHS England] or ^{F5}integrated care boards]

- (1) Regulations ^{F6}must] impose requirements (to be known as “standing rules”) in accordance with this section on ^{F4}NHS England][^{F7}and] on ^{F8}integrated care boards].
- [The regulations must make provision as to the arrangements that NHS England and ^{F9}(1A) integrated care boards must make, in exercising their commissioning functions, for enabling persons to whom specified treatments or other specified services are to be provided to make choices with respect to specified aspects of them.
- (1B) The regulations may make other provision for the purpose of securing that, in exercising their commissioning functions, NHS England and integrated care boards protect and promote the rights of persons to make choices in relation to treatments or other services, where those rights—
- (a) arise by virtue of regulations under subsection (1A), or
 - (b) are described in the NHS Constitution.]
- (2) The regulations may, in relation to the commissioning functions of ^{F4}NHS England] or ^{F10}integrated care boards], make provision—
- (a) requiring ^{F4}NHS England] or ^{F10}integrated care boards] to arrange for specified treatments or other specified services to be provided or to be provided in a specified manner or within a specified period;
 - (b) as to the arrangements that ^{F4}NHS England] or ^{F10}integrated care boards] must make for the purpose of making decisions as to—
 - (i) the treatments or other services that are to be provided;
 - (ii) the manner in which or period within which specified treatments or other specified services are to be provided;

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- (iii) the persons to whom specified treatments or other specified services are to be provided;
- ^{F11}(c)
- (3) Regulations by virtue of paragraph (b) of subsection (2) may, in particular, make provision—
 - (a) requiring [^{F4}NHS England] or [^{F12}an integrated care board] to take specified steps before making decisions as to the matters mentioned in that paragraph;
 - (b) as to reviews of, or appeals from, such decisions.
- (4) The regulations may—
 - (a) specify matters for which provision must be made in commissioning contracts entered into by [^{F4}NHS England] or [^{F13}integrated care boards];
 - (b) require [^{F4}NHS England] to draft terms and conditions making provision for those matters;
 - (c) require [^{F4}NHS England] or [^{F14}integrated care boards] to incorporate the terms and conditions drafted by virtue of paragraph (b) in commissioning contracts entered into by [^{F4}NHS England] or (as the case may be) [^{F14}integrated care boards].
- (5) The regulations must—
 - (a) require [^{F4}NHS England] to draft such terms and conditions as [^{F4}NHS England] considers are, or might be, appropriate for inclusion in commissioning contracts entered into by [^{F4}NHS England] or [^{F15}integrated care boards] (other than terms and conditions that [^{F4}NHS England] is required to draft by virtue of subsection (4)(a));
 - (b) authorise [^{F4}NHS England] to require [^{F16}integrated care boards] to incorporate terms and conditions prepared by virtue of paragraph (a) in their commissioning contracts;
 - (c) authorise [^{F4}NHS England] to draft model commissioning contracts.
- (6) The regulations may require [^{F4}NHS England] to consult prescribed persons before exercising any of its functions by virtue of subsection (4)(b) or (5).
- (7) The regulations may require [^{F4}NHS England] or [^{F17}integrated care boards] in the exercise of any of its or their functions—
 - (a) to provide information of a specified description to specified persons in a specified manner;
 - ^{F18}(b)
 - (c) to do such other things as the Secretary of State considers necessary for the purposes of the health service.
- (8) The regulations may not impose a requirement on only one [^{F19}integrated care board].
- (9) If regulations under this section are made so as to come into force on a day other than 1 April, the Secretary of State must—
 - (a) publish a statement explaining the reasons for making the regulations so as to come into force on such a day, and
 - (b) lay the statement before Parliament.
- (10) In this section—
 - (a) “commissioning contracts”, in relation to [^{F4}NHS England] or [^{F20}integrated care boards], means contracts entered into by [^{F4}NHS England] or (as the

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- case may be) [^{F20}integrated care boards] in the exercise of its or their commissioning functions;
- (b) “commissioning functions”, in relation to [^{F4}NHS England] or [^{F21}integrated care boards], means the functions of [^{F4}NHS England] or (as the case may be) [^{F21}integrated care boards] in arranging for the provision of services as part of the health service;
- (c) “specified” means specified in the regulations.]

Textual Amendments

- F3** S. 6E inserted (27.3.2012 for specified purposes, 1.2.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 20\(1\)](#), 306(1)(d)(4); S.I. 2012/2657, art. 2(4)
- F4** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F5** Words in s. 6E heading substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(2\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F6** Word in s. 6E(1) substituted (1.1.2024) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 78\(2\)\(a\)\(i\)](#), 186(6); S.I. 2023/1431, [reg. 3\(a\)](#)
- F7** Word in s. 6E(1) substituted (1.1.2024) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 78\(2\)\(a\)\(ii\)](#), 186(6); S.I. 2023/1431, [reg. 3\(a\)](#)
- F8** Words in s. 6E(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(3\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F9** S. 6E(1A)(1B) inserted (1.1.2024) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 78\(2\)\(b\)](#), 186(6); S.I. 2023/1431, [reg. 3\(a\)](#)
- F10** Words in s. 6E(2) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(3\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F11** S. 6E(2)(c) omitted (1.1.2024) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 78\(2\)\(c\)](#), 186(6); S.I. 2023/1431, [reg. 3\(a\)](#) (with [reg. 5\(1\)](#))
- F12** Words in s. 6E(3)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(4\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F13** Words in s. 6E(4)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(5\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F14** Words in s. 6E(4)(c) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(5\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F15** Words in s. 6E(5)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(5\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F16** Words in s. 6E(5)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(5\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F17** Words in s. 6E(7) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(5\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F18** S. 6E(7)(b) omitted (31.12.2020) by virtue of [The National Health Service \(Cross-Border Healthcare and Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/777\)](#), [regs. 1\(1\), 3\(f\)](#) (with [reg. 15, Sch. 1](#)) (as amended by S.I. 2020/1348, [regs. 10-12](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F19** Words in s. 6E(8) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(6\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F20** Words in s. 6E(10)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(7\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F21** Words in s. 6E(10)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 89\(7\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))

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[^{F22}6F Enforcement of section 6E regulations relating to patient choice

- (1) NHS England may investigate whether an integrated care board has failed or is likely to fail to comply with a requirement imposed by regulations under section 6E(1A) or (1B) (a “patient choice requirement”).
- (2) NHS England may direct an integrated care board—
 - (a) to put in place measures for the purpose of preventing failures to comply with patient choice requirements or mitigating the effect of such failures, or
 - (b) where an investigation under subsection (1) has been carried out, to remedy a failure to comply with patient choice requirements.
- (3) Where an investigation under subsection (1) is being or has been carried out, NHS England may accept from the integrated care board an undertaking that it will take any action falling within subsection (2)(a) or (b) that is specified in the undertaking, within a period that is so specified.
- (4) Where NHS England accepts an undertaking under subsection (3), NHS England may not—
 - (a) continue to carry out any ongoing investigation under subsection (1) so far as relating to matters to which the undertaking relates, or
 - (b) give a direction under subsection (2) in relation to those matters, unless the integrated care board fails to comply with the undertaking.
- (5) If an integrated care board from which NHS England has accepted an undertaking under subsection (3) complies partially with the undertaking, NHS England must take the partial compliance into account in deciding whether to do something mentioned in subsection (4)(a) or (b).
- (6) Schedule 1ZA makes further provision about undertakings.

Textual Amendments

F22 Ss. 6F, 6G inserted (1.1.2024) by [Health and Care Act 2022 \(c. 31\)](#), ss. 78(3), 186(6); S.I. 2023/1431, reg. 3(a)

6G Guidance relating to patient choice

- (1) NHS England must publish guidance about how it intends to exercise powers conferred on it by section 6F and Schedule 1ZA.
- (2) Before publishing guidance under this section, NHS England must obtain the approval of the Secretary of State.]

Textual Amendments

F22 Ss. 6F, 6G inserted (1.1.2024) by [Health and Care Act 2022 \(c. 31\)](#), ss. 78(3), 186(6); S.I. 2023/1431, reg. 3(a)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)