

2006 No. 359

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) (Amendment) Regulations 2006

Made - - - - *14th February 2006*
Laid before Parliament *24th February 2006*
Coming into force - - *1st April 2006*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 16D, 17, 18 and 126(3) and (4) of the National Health Service Act 1977(a):—

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) (Amendment) Regulations 2006 and shall come into force on 1st April 2006.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002(b).

(3) These Regulations apply in relation to England only.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation), in paragraph (1) in the appropriate alphabetical position, there shall be inserted—

““the 2000 Act” means the Care Standards Act 2000;”(c);

(a) 1977 c. 49 (“the Act”); section 16D was substituted by the Health Act 1999 (c. 8) (“the 1999 Act”), section 12(1) and amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), section 3(2) and Schedule 1, paragraph 6; section 17 was substituted by the 1999 Act, section 12(1) and amended by the 2002 Act, Schedule 1, paragraph 7; section 18, subsections (1) to (1B) were substituted by the 1999 Act, section 12(3) and amended by the 2002 Act, Schedule 1, paragraph 9; section 126(3) was amended by the National Health Service (Primary Care) Act 1997 (c. 46), section 41(10), Schedule 2, paragraph 27 and by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 65(2); section 126(4) was amended by the 1990 Act, section 65(2), the 1999 Act, Schedule 4, paragraph 37, by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), Schedule 5, paragraph 5(13)(b), and by the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”), section 196, Schedule 14, Part 4; see section 128(1) of the Act, as amended by section 26(2)(i) and (g) of the 1990 Act, for the definitions of “prescribed” and “regulations”. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (“the 1999 Order”), S.I. 1999/672, as amended by the 1999 Act, section 66(4), (5)(a), the 2001 Act, section 67(1), Schedule 5, Part 1, and by the 2003 Act, section 196, Schedule 14, Part 4; see the entry in Schedule 1 of the 1999 Order for the Act.

(b) S.I. 2002/2375; relevant amending instruments are S.I. 2003/1497 and S.I. 2004/865.

(c) 2000 c. 14.

““care home” has the same meaning as in the 2000 Act;”(a);

““continuing care” means care provided over an extended period of time to a person to meet physical or mental health needs which have arisen as the result of illness;” (b);

““independent hospital” has the same meaning as in the 2000 Act;”(c);and

““planned service” means any service, the provision of which is planned and arranged in response to the results of an assessment of a person’s physical or mental health needs, and which is intended to bring about or to promote a specific outcome in relation to that person’s treatment;”.

Amendment of regulation 3 of the principal Regulations

3.—(1) Regulation 3 of the principal Regulations (functions of the Secretary of State exercisable by Strategic Health Authorities and Primary Care Trusts) shall be amended as follows.

(2) In paragraph (7)(a), at the beginning there shall be inserted “Subject to paragraph (7B),”.

(3) After paragraph (7), there shall be inserted—

“(7A) Paragraph (7B) applies where—

(a) on or after 1st April 2006, a Primary Care Trust (“the placing PCT”) has made an arrangement in the exercise of its functions under paragraph (7)(a) by virtue of which a person aged 18 or over is to be provided with services which consist of or include the provision of—

(i) accommodation in a care home or independent hospital situated in the area of another Primary Care Trust, and

(ii) nursing and another service which is a planned service, as part of the health service(d), to meet his continuing care needs; and

(b) the person—

(i) is thereby resident in such accommodation;

(ii) continues to require the services described in sub-paragraph (ii) above to meet his continuing care needs; and

(iii) does not fall under the responsibility of the placing PCT under paragraph (7)(a)(i).

(7B) The placing PCT shall continue to exercise the functions referred to in paragraphs (1) and (2) for the benefit of a person referred to in paragraph (7A) in so far as those functions consist of providing or securing the provision of—

(a) accommodation in a care home or independent hospital, or

(b) nursing and such other services as are required, to the extent that they are connected to the provision to him of such accommodation (whether or not the accommodation is provided or secured by the placing PCT),

to meet his continuing care needs.”.

Signed by authority of the Secretary of State for Health

14th February 2006

Liam Byrne
Parliamentary Under Secretary of State,
Department of Health

(a) See sections 3 and 121(9) of the Care Standards Act 2000 (c. 14) (“the 2000 Act”) for the meaning of “care home”.

(b) See section 128 of the Act for the meaning of “illness” which is defined as including any injury or disability requiring medical treatment or nursing.

(c) See section 2(2) and (3) of the 2000 Act for the meaning of “independent hospital”.

(d) See section 128 of the Act for the meaning of “the health service”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England only, further amend the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 (“the principal Regulations”).

Regulation 3 amends regulation 3 of the principal Regulations which, amongst other things, determines for whose benefit a Primary Care Trust shall exercise the functions of providing or securing services to patients delegated to it under the principal Regulations. The amendments made by these Regulations provide for the circumstances in which a Primary Care Trust must continue to provide or secure certain services for the benefit of a person aged 18 or over who is provided with accommodation in a care home or independent hospital in the area of another Primary Care Trust to meet his continuing care needs.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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