
STATUTORY INSTRUMENTS

2022 No. 734

**The Health and Care Act 2022 (Commencement No. 2
and Transitional and Saving Provision) Regulations 2022**

PART 11

**Transitional provision in relation to the abolition of clinical
commissioning groups and the creation of integrated care boards**

Transitional and saving provision: annual reports of clinical commissioning groups

23.—(1) This regulation applies where, prior to its abolition, a clinical commissioning group has not fully discharged its obligations under section 14Z15(1) of the 2006 Act in relation to—

- (a) the financial year ending with 31st March 2022, or
- (b) the financial year beginning with 1st April 2022.

(2) Section 14Z15 of the 2006 Act is saved in relation to the relevant period and is to be read as if—

- (a) in subsection (1), the obligation imposed on the clinical commissioning group to prepare a report were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (b) in subsection (3), the obligation imposed on the clinical commissioning group to consult each relevant Health and Wellbeing Board were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (c) in subsection (4)—
 - (i) directions applicable to the clinical commissioning group were applicable to the successor integrated care board in relation to that clinical commissioning group, and
 - (ii) NHS England may give directions to an integrated care board as to the form and content of an annual report in relation to a clinical commissioning group's relevant period;
- (d) in subsection (5)—
 - (i) the obligation imposed on the clinical commissioning group to provide a copy of its annual report before a specified date were imposed on the successor integrated care board in relation to that clinical commissioning group,
 - (ii) that obligation required the report to be provided by the successor integrated care board to NHS England, and
 - (iii) NHS England may give directions to an integrated care board specifying a date before which the annual report must be delivered to it;
- (e) in subsection (6)—

- (i) the obligation imposed on the clinical commissioning group to publish its annual report were imposed on the successor integrated care board in relation to that clinical commissioning group, and
 - (ii) subsection (6)(b) were omitted.
- (3) In paragraph (2), “relevant period” means—
- (a) the financial year ending with 31st March 2022, or
 - (b) the financial year beginning with 1st April 2022 and ending with 30th June 2022.

Transitional and saving provision: performance assessment of clinical commissioning groups

24.—(1) This regulation applies where a performance assessment of a clinical commissioning group required under section 14Z16 of the 2006 Act⁽²⁾ has not been completed in relation to the financial year ending with 31st March 2022.

(2) Section 14Z16 of the 2006 Act is saved in relation to the financial year ending with 31st March 2022 and is to be read as if references to the Board were references to NHS England.

Transitional provision: means of meeting expenditure of integrated care boards out of public funds

25.—(1) In respect of the first financial year of an integrated care board, section 223G of the 2006 Act is to be read as if subsection (2)(a) were a reference to the expenditure during the relevant period of any predecessor clinical commissioning group of the integrated care board⁽³⁾.

(2) In paragraph (1), “relevant period” means the financial year ending with 31st March 2022 together with the period beginning with 1st April 2022 and ending with 30th June 2022.

Transitional provision: NHS England consolidated annual accounts

26. Paragraph 16 of Schedule A1 to the 2006 Act is to be read as if—

- (a) in respect of the financial year ending with 31st March 2022, the reference in sub-paragraph (2)(b) to an integrated care board⁽⁴⁾ were to a clinical commissioning group, and
- (b) in respect of the financial year beginning with 1st April 2022, the reference in sub-paragraph (2)(b) to an integrated care board were also to include a clinical commissioning group in relation to the period ending with 30th June 2022.

Transitional provision: NHS England consolidated interim accounts

27. Paragraph 17 of Schedule A1 to the 2006 Act is to be read as if, in respect of any period before 1st July 2022, the reference in sub-paragraph (2)(b)—

- (a) to an integrated care board⁽⁵⁾ were to a clinical commissioning group, and
- (b) to paragraph 22(3) of Schedule 1B⁽⁶⁾ were to paragraph 17(3) of Schedule 1A as it applied at the date concerned.

(2) Section 14Z16 is revoked by paragraph 100 of Schedule 4 to the 2022 Act.

(3) For the first financial year of an integrated care board, the finance given to a clinical commissioning group in its final year before abolition may be taken into account.

(4) Reference to an integrated care board was substituted by paragraph 134(2) of Schedule 4 to the 2022 Act.

(5) Reference to an integrated care board was substituted by paragraph 134(3)(a) of Schedule 4 to the 2022 Act.

(6) Reference to paragraph 22(3) of Schedule 1B was substituted by paragraph 134(3)(a) of Schedule 4 to the 2022 Act.

Transitional and saving provision: clinical commissioning group accounts

28.—(1) This regulation applies where, prior to its abolition, a clinical commissioning group has not fully discharged its obligations under paragraph 17 of Schedule 1A to the 2006 Act in relation to—

- (a) the financial year ending with 31st March 2022, or
- (b) the financial year beginning with 1st April 2022.

(2) Paragraph 17 of Schedule 1A to the 2006 Act⁽⁷⁾ is saved in relation to the relevant period and is to be read as if—

- (a) references to the Board were references to NHS England;
- (b) in respect of the financial year beginning with 1st April 2022, that year ended with 30th June 2022;
- (c) the obligation in sub-paragraph (1) imposed on the clinical commissioning group to keep proper accounts and proper records in relation to the accounts were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (d) the obligation in sub-paragraph (2) imposed on the clinical commissioning group to prepare annual accounts in respect of that financial year were imposed on the successor integrated care board in relation to that clinical commissioning group;
- (e) directions given under sub-paragraph (3) to the clinical commissioning group were given to the successor integrated care board in relation to that clinical commissioning group;
- (f) NHS England may give directions under sub-paragraph (4) to an integrated care board as to the methods and principles according to which the annual or other accounts must be prepared, and the form and content of such accounts, in relation to a clinical commissioning group's financial year;
- (g) the obligation imposed on the clinical commissioning group in sub-paragraphs (7) and (8) to send accounts before a specified date were imposed on the successor integrated care board in relation to that clinical commissioning group.

(3) In paragraph (2), “relevant period” means—

- (a) the financial year ending with 31st March 2022, or
- (b) the financial year beginning with 1st April 2022 and ending with 30th June 2022.

Transitional and saving provision: continuity in relation to the affairs of clinical commissioning groups

29.—(1) Anything done before 1st July 2022 by or in relation to a clinical commissioning group in connection with the exercise of a function which from 1st July 2022 falls to be performed by an integrated care board, is to be treated on and after that date as if done by or in relation to the integrated care board.

(2) Any instrument made by or in relation to a clinical commissioning group which relates to a function which from 1st July 2022 falls to be performed by an integrated care board continues in force in relation to the integrated care board until it is varied or revoked by the integrated care board.

(3) Any form supplied by a clinical commissioning group which relates to a function which from 1st July 2022 falls to be performed by an integrated care board, continues to be a valid form until it is cancelled or varied by the integrated care board, as if any reference in that form to the clinical commissioning group in question were a reference to the integrated care board.

(7) Chapter A2 of the 2006 Act, and consequently Schedule 1A introduced by that Chapter, is revoked by paragraph 100 of Schedule 4 to the 2022 Act.

(4) So far as is necessary or appropriate, a reference in an agreement or other instrument to a clinical commissioning group which relates to a function which from 1st July 2022 falls to be performed by an integrated care board, is to be treated on or after that date as a reference to the integrated care board.

(5) In this regulation, a reference to a function of a clinical commissioning group which from 1st July 2022 falls to be performed by an integrated care board includes a reference to the provision of, or the arrangement of the provision of, a service by a clinical commissioning group which from 1st July 2022 is provided, or its provision arranged, by an integrated care board.

(6) Paragraphs (1) to (4) apply subject to any provision for continuity in—

- (a) a transfer scheme under section 14Z28 of the 2006 Act;
- (b) a transfer scheme under section 38 of the 2022 Act;
- (c) regulations made under section 182 of the 2022 Act (power to make consequential provision); or
- (d) any other enactment.

Transitional provision: winding up of the affairs of clinical commissioning groups

30. An integrated care board may do anything which appears necessary or appropriate for the winding up of the affairs of any clinical commissioning group for which it is the successor integrated care board.

Transitional and saving provision: complaints about clinical commissioning groups

31.—(1) A complaint made under the Health Service Commissioners Act 1993⁽⁸⁾ to the Health Service Commissioner for England in relation to a clinical commissioning group, whether made before, on or after 1st July 2022, may be investigated by the Commissioner notwithstanding the abolition of the clinical commissioning group, and the Commissioner must send a copy of the report of the result of the complaint to the successor integrated care board in relation to that clinical commissioning group.

(2) A review or investigation in relation to a clinical commissioning group, whether begun before, on or after 1st July 2022, may be conducted by the Care Quality Commission, notwithstanding the abolition of the clinical commissioning group, and the Commission must send a copy of the report of the result of the investigation to the successor integrated care board in relation to that clinical commissioning group.

(3) A complaint made under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009⁽⁹⁾ in relation to a clinical commissioning group, whether made before, on or after 1st July 2022, is to be dealt with by the successor integrated care board in relation to that clinical commissioning group notwithstanding the abolition of the clinical commissioning group, and treated as if it were a complaint against that successor integrated care board.

Transitional provision: applications to court in respect of children in secure accommodation

32. Where before 1st July 2022 a clinical commissioning group has made arrangements for the provision of accommodation for a child under the 2006 Act, regulation 2 of the Children (Secure Accommodation) (No. 2) Regulations 1991⁽¹⁰⁾ is to be read as if those arrangements had been made by the successor integrated care board in relation to that clinical commissioning group.

⁽⁸⁾ 1993 c. 46.

⁽⁹⁾ S.I. 2009/309.

⁽¹⁰⁾ S.I. 1991/2034.

Transitional provision: joint forward plans and joint capital resource use plans

33.—(1) This regulation applies in respect of the financial year ending with 31st March 2023.

(2) Sections 14Z52(1) to (6) and 14Z53 to 14Z55 of the 2006 Act(**11**) do not apply.

(3) Insofar as it remains relevant, an integrated care board and its partner NHS trusts and NHS foundation trusts must have regard to any existing forward plan of a clinical commissioning group for which that board is the successor integrated care board.

(4) In paragraph (3), “existing forward plan” means a commissioning plan prepared or revised by a clinical commissioning group before 1st July 2022 pursuant to sections 14Z11 and 14Z12 of the 2006 Act in respect of the financial year ending with 31st March 2023.

(5) Section 14Z56(1) of the 2006 Act(**12**) is to be read as if, for the words “Before the start of each financial year”, there were substituted “As soon as reasonably practicable after the giving of any direction pursuant to subsection (2) relating to any part of the financial year ending with 31st March 2023”.

(6) The following provisions of the 2006 Act is to be read as if the reference to a forward plan published under section 14Z52 were a reference to the existing forward plan of a clinical commissioning group referred to in paragraph (3)—

- (a) section 14Z58(2)(b)(**13**);
- (b) paragraph 12(1A) of Schedule 4(**14**);
- (c) paragraph 26(1A) of Schedule 7(**15**).

Transitional provision: NHS England’s financial responsibilities

34. In respect of the financial year ending with 31st March 2023—

- (a) section 223C of the 2006 Act(**16**) is to be read as if—
 - (i) the list of bodies in subsection (1) included a reference to clinical commissioning groups in respect of their expenditure incurred and sums received in the period beginning with the 1st April 2022 and ending with the 30th June 2022;
 - (ii) subsection (2)(d) included a reference to sums received but not spent by a predecessor clinical commissioning group in the period beginning with 1st April 2022 and ending with 30th June 2022 to be aggregated with any sums received but not spent by the integrated care board;
- (b) section 223D of the 2006 Act(**17**) is to be read as if the list of bodies in subsection (3) included a reference to clinical commissioning groups in respect of their use of capital resources or (as the case may be) revenue resources in the period beginning with 1st April 2022 and ending with 30th June 2022;
- (c) section 223E of the 2006 Act(**18**) is to be read as if—
 - (i) subsection (2) included a reference to clinical commissioning groups in respect of their use of capital resources or (as the case may be) revenue resources in the period beginning with 1st April 2022 and ending with 30th June 2022;

(11) Sections 14Z52 to 14Z55 are inserted by section 25 of the 2022 Act.

(12) Section 14Z56 is inserted by section 25 of the 2022 Act.

(13) Section 14Z58 is inserted by section 25 of the 2022 Act.

(14) Paragraph 12(1A) is inserted by paragraph 136 of Schedule 4 to the 2022 Act.

(15) Paragraph 26(1A) is inserted by paragraph 137 of Schedule 4 to the 2022 Act.

(16) Section 223C is substituted by sections 27 and 28 of the 2022 Act.

(17) Section 223D is substituted by section 27 of the 2022 Act.

(18) Section 223E is substituted by section 27 of the 2022 Act.

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- (ii) subsection (3) included a reference to NHS England’s use of revenue resources which is attributable to such matters relating to administration as are specified in the direction in connection with clinical commissioning groups in the period beginning with 1st April 2022 and ending with 30th June 2022.

Transitional provision: appointment of local auditor

35. In respect of the financial year ending with 31st March 2023 and in relation to an integrated care board only, section 7(1) of the Local Audit and Accountability Act 2014(**19**) is to be read as if, for the words “not later than 31 December in the preceding financial year”, there were substituted “as soon as reasonably practicable after 1st July 2022 and in any event before 1st October 2022”.