

This Statutory Instrument has been made, in part, to correct errors in S.I. 2022/634 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2023 No. 306

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023

<i>Made</i>	- - - -	<i>9th March 2023</i>
<i>Laid before Parliament</i>		<i>10th March 2023</i>
<i>Coming into force</i>		<i>1st April 2023</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 182 of the Health and Care Act 2022^(a) and sections 175 and 272(7) and (8) of the National Health Service Act 2006^(b).

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023 and come into force on 1st April 2023.

(2) These Regulations extend to England and Wales.

PART 2

Provisions consequential on the transition from the National Tariff to the NHS payment scheme

Amendment of the National Health Service (Licensing and Pricing) Regulations 2013

2. In the National Health Service (Licensing and Pricing) Regulations 2013^(c), omit regulations 5 and 6.

(a) 2022 c.31.

(b) 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006 (“the 2006 Act”) the powers of the Secretary of State exercised in making these Regulations under the 2006 Act are exercisable only in relation to England. For the meaning of “prescribed” and “regulations”, see section 275(1).

(c) S.I. 2013/2214, amended by S.I. 2015/2018 and 2022/634.

Amendment of the National Health Service (Charges to Overseas Visitors) Regulations 2015

3.—(1) Regulation 7 (charges imposed on overseas visitors) of the National Health Service (Charges to Overseas Visitors) Regulations 2015^(a) is amended as follows.

(2) In paragraph (3), for “tariff” substitute “amount payable”.

(3) After paragraph (3A), insert—

“(3B) In this regulation “amount payable” has the meaning set out in paragraphs (3C) to (3H).

(3C) Where the rules contained in the NHS payment scheme specify a price for a relevant service, that is the amount payable for that service.

(3D) Where the rules contained in the NHS payment scheme specify amounts, agreements, formulae or other matters on the basis of which the price for a relevant service is to be determined, the amount payable for that service is the price that would apply as specified in those rules if the service were provided to a person ordinarily resident in the United Kingdom.

(3E) Where the rules contained in the NHS payment scheme provide for prices to be determined for, or by reference to, components of a relevant service, the amount payable for that service is the price that would apply for the whole service, if the service were provided to a person ordinarily resident in the United Kingdom, as calculated using the price for each component.

(3F) Where the rules contained in the NHS payment scheme provide for prices to be determined for, or by reference to, a group of services of which the relevant service is a part, the amount payable for that service is the price that would apply for the proportion of the group of services that the relevant service represents, if the services were provided to a person ordinarily resident in the United Kingdom.

(3G) Where the NHS payment scheme does not contain rules for determining the price for a relevant service as described by paragraphs (3C) to (3F), the amount payable for that service is such reasonable charge that the relevant body determines having had regard to the matters set out in paragraph (3H).

(3H) The matters to which the relevant body must have regard for the purposes of determining the amount payable for a relevant service under paragraph (3G) are—

- (a) the actual cost that would be payable to the relevant body by the commissioner, in accordance with the rules contained in the NHS payment scheme, in respect of the relevant service, if the service were provided to a person ordinarily resident in the United Kingdom; and
- (b) where the relevant service would normally be commissioned as part of a group of services, the proportion of the group of services that the service provided to the overseas visitor represents.”.

(4) Omit paragraphs (4) to (12).

(5) For paragraph (13), substitute “For the purposes of this regulation, “NHS payment scheme” means the document published under section 114A(1) of the Health and Social Care Act 2012.”^(b).

(a) S.I. 2015/238, amended by S.I. 2017/756, 2020/1423, 2022/19 and 634.

(b) 2012 c.7. Section 114A was inserted by section 77 of, and paragraphs 1 and 3 of Schedule 10 to, the Health and Care Act 2022. The NHS payment scheme is published on the following website: <https://www.england.nhs.uk/pay-syst/nhs-payment-scheme/>. A hard copy is available from the Pricing Team, Monitor, 3rd Floor Wellington House, 133-155 Waterloo Road, London SE1 8UG.

PART 3

Provisions consequential on the establishment of integrated care boards and the abolition of clinical commissioning groups

Amendment of the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009 (Welsh language text)

4.—(1) The Welsh language text of the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009 (Rheoliadau Ymddiriedolaeth Gwasanaeth Iechyd Gwladol Iechyd Cyhoeddus Cymru (Aelodaeth a Gweithdrefn) 2009)(a) is amended as follows.

(2) In regulation 15 (datgymhwyso rhag penodi cadeirydd a chyfarwyddwyr anweithredol), in paragraph (1)(ch), omit “ac eithrio grŵp comisiynu clinigol”.

Amendment of the Local Health Boards (Directed Functions) (Wales) Regulations 2009 (Welsh language text)

5.—(1) The Welsh language text of the Local Health Boards (Directed Functions) (Wales) Regulations 2009 (Rheoliadau'r Byrddau Iechyd Lleol (Swyddogaethau a Gyfarwyddir) (Cymru) 2009)(b) is amended as follows.

(2) In regulation 3, in paragraph (2)(a), in the full out words after sub-paragraph (ii) for “grwp comisiynu clinigol” substitute “fwrdd gofal integredig”.

Signed by authority of the Secretary of State for Health and Social Care

9th March 2023

Will Quince
Minister of State,
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments which are consequential on the Health and Care Act 2022 (“the 2022 Act”).

Part 2 makes amendments which are consequential on the transition from the National Tariff to the NHS payment scheme, following commencement of section 77 of, and Schedule 10 to, the 2022 Act. The NHS payment scheme, like the National Tariff before it, sets out the prices, and rules for determining prices, payable by NHS commissioners to providers for providing services as part of the health service. Regulation 2 amends the National Health Service (Licensing and Pricing) Regulations 2013 (S.I. 2013/2214) to remove provisions setting out the definition of “relevant providers” and the level of objection percentages relating to consultation on the National Tariff. Regulation 3 amends the National Health Service (Charges to Overseas Visitors) Regulations 2015 (S.I. 2015/238) so that the process for setting charges to overseas visitors for health care does so by reference to the NHS payment scheme, rather than the National Tariff.

Part 3 corrects errors in amendments previously made to the Welsh language versions of two statutory instruments in order to ensure that their text is equivalent to the text in the English language versions of those statutory instruments. The amendments were consequential on the establishment of integrated care boards and the abolition of clinical commissioning groups (see section 19 of the 2022 Act). These Regulations will therefore be issued free of charge to all known

(a) S.I. 2009/1385 (W. 141), as amended by S.I. 2012/1641, 2013/235 and 2022/634.

(b) S.I. 2009/1511 (W. 147), as amended by S.I. 2013/235 and 2022/634. There are other amending instruments but none is relevant.

recipients of the statutory instrument (the Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022 (S.I. 2022/634)) containing the errors.

A full impact assessment has been prepared in relation to the 2022 Act. A copy is available at www.gov.uk/government/publications/health-and-care-bill-combined-impact-assessments. A hard copy can be obtained by writing to the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU.

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