Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Further provision about clinical commissioning groups

28 Requirement for primary medical services provider to belong to clinical commissioning group

(1) In section 89 of the National Health Service Act 2006 (general medical services contracts: required terms), after subsection (1) insert—

"(1A) Regulations under subsection (1) may, in particular, make provision—

(a) for requiring a contractor who provides services of a prescribed description (a "relevant contractor") to be a member of a clinical commissioning group;

(b) as to arrangements for securing that a relevant contractor appoints one individual to act on its behalf in the dealings between it and the clinical commissioning group to which it belongs;

(c) for imposing requirements with respect to those dealings on the individual appointed for the purposes of paragraph (b);

(d) for requiring a relevant contractor, in doing anything pursuant to the contract, to act with a view to enabling the clinical commissioning group to which it belongs to discharge its functions (including its obligation to act in accordance with its constitution).

(1B) Provision by virtue of subsection (1A)(a) may, in particular, describe services by reference to the manner or circumstances in which they are performed.

(1C) In the case of a contract entered into by two or more individuals practising in partnership—

Changes to legislation: *Health and Social Care Act 2012, Section 28 is up to date with all changes known to be in force on or before 24 July 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*

(a) regulations making provision under subsection (1A)(a) may make provision for requiring each partner to secure that the partnership is a member of the clinical commissioning group;

(b) regulations making provision under subsection (1A)(b) may make provision as to arrangements for securing that the partners make the appointment;

(c) regulations making provision under subsection (1A)(d) may make provision for requiring each partner to act as mentioned there.

(1D) Regulations making provision under subsection (1A) for the case of a contract entered into by two or more individuals practising in partnership may make provision as to the effect of a change in the membership of the partnership.

(1E) The regulations may require an individual appointed for the purposes of subsection (1A)(b)—

(a) to be a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, and

(b) to meet such other conditions as may be prescribed."

(2) In section 94 of that Act (regulations about arrangements under section 92 of that Act for provision of primary medical services), after subsection (3) insert—

"(3A) Regulations under subsection (3)(d) may—

(a) require a person who provides services of a prescribed description in accordance with section 92 arrangements (a "relevant provider") to be a member of a clinical commissioning group;

(b) make provision as to arrangements for securing that a relevant provider appoints one individual to act on its behalf in dealings between it and the clinical commissioning group to which it belongs;

(c) impose requirements with respect to those dealings on the individual appointed for the purposes of paragraph (b);

(d) require a relevant provider, in doing anything pursuant to section 92 arrangements, to act with a view to enabling the clinical commissioning group to which it belongs to discharge its functions (including its obligation to act in accordance with its constitution).

(3B) Provision by virtue of subsection (3A)(a) may, in particular, describe services by reference to the manner or circumstances in which they are performed.

(3C) In the case of an agreement made with two or more persons—

(a) regulations making provision under subsection (3A)(a) may require each person to secure that the persons collectively are a member of the clinical commissioning group;

(b) regulations making provision under subsection (3A)(b) may make provision as to arrangements for securing that the persons collectively make the appointment;

(c) regulations making provision under subsection (3A)(d) may require each person to act as mentioned there.

(3D) Regulations making provision under subsection (3A) for the case of an agreement made with two or more persons may make provision as to the effect of a change in the composition of the group of persons involved.

Changes to legislation: *Health and Social Care Act 2012, Section 28 is up to date with all changes known to be in force on or before 24 July 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*

(3E) The regulations may require an individual appointed for the purposes of subsection (3A)(b)—

(a) to be a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, and

(b) to meet such other conditions as may be prescribed."

Commencement Information

I1 S. 28 partly in force; s. 28 in force for specified purposes at Royal Assent, see s. 306(1)(d)

I2 S. 28 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

Changes to legislation:
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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by S.I. 2012/2657 art. 15

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):

- Pt. 9 Ch. 1B inserted by 2022 c. 31 s. 96
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by S.I. 2019/1245 reg. 28 (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by 2013 c. 24 Sch. 14 para. 21
- s. 106(3A)(3B) inserted by 2013 c. 24 Sch. 14 para. 22
- s. 250(2)-(2B) substituted for s. 250(2) by 2022 c. 31 s. 95(2)(a)
- s. 250(6)-(6D) substituted for s. 250(6) by 2022 c. 31 s. 95(2)(d)
- s. 251251ZA substituted for s. 251 by 2022 c. 31 s. 95(3)
- s. 251C(6A) inserted by 2022 c. 31 s. 95(4)(a)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by 2022 c. 31 s. 98(b)
- s. 259(1)(aa) words substituted by S.I. 2023/98 Sch. para. 17(11)(a)(iii) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by 2022 c. 31 s. 98(h)
- s. 304(5)(ja) inserted by 2022 c. 31 s. 95(5)