

2018 No. 54

NATIONAL HEALTH SERVICE, ENGLAND

PUBLIC HEALTH, ENGLAND

SOCIAL CARE, ENGLAND

The Care Quality Commission (Reviews and Performance Assessments) Regulations 2018

Made - - - - - *18th January 2018*

Laid before Parliament *22nd January 2018*

Coming into force - - - *1st April 2018*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 46(1) and (2) and 161(4) of the Health and Social Care Act 2008(a).

Citation and commencement

1. These Regulations may be cited as the Care Quality Commission (Reviews and Performance Assessments) Regulations 2018 and come into force on 1st April 2018.

Prescribed registered service providers and regulated activities

2.—(1) For the purposes of section 46(1) of the Health and Social Care Act 2008 (reviews and performance assessments)—

- (a) all registered service providers are prescribed;
- (b) all regulated activities (b) are prescribed except to the extent that they are services, activities or procedures which are described in column 2 of the Table.

Table

<i>Column 1- non prescribed activity</i>	<i>Column 2 - description of non prescribed activity</i>
National screening programmes	All diagnostic and screening procedures carried on as part of a national screening programme by a body established solely for the purpose of such a programme.
Primary care dental services	All dental care, and services (including care and services

(a) 2008 c.14. See the definition of prescribed and regulations in section 97(1) of the 2008 Act. Section 46 was substituted by section 91(2) of the Care Act 2014 (c.23).

(b) See section 8 of the 2008 Act and regulation 3 of, and Schedules 1 and 2 to, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936) for the definition of “regulated activity”.

Minor cosmetic surgery	carried out for cosmetic purposes) except when carried on by a registered service provider which is an independent hospital, a NHS Trust or a NHS Foundation Trust Cosmetic surgery procedures (apart from procedures to the eye which correct refractive error) which do not require intravenous sedation, general anaesthesia or the insertion of an implant.
Health and justice services	Any regulated activity carried on in— (a) a prison; (b) a police station; (c) a place for the detention of young offenders; (d) an immigration removal centre; or (e) a sexual assault referral centre except where it is carried on by a registered service provider which is a NHS Trust, a NHS Foundation Trust or a provider of primary medical services.
Hyperbaric therapy	The treatment of disease, disorder or injury within paragraph 4(1) of Schedule 1 (regulated activities) to the 2014 Regulations by providing hyperbaric therapy (being the administration of oxygen (whether or not combined with one or more other gases) to a person who is in a sealed chamber which is gradually pressurised with compressed air).
Independent podiatry surgery	The carrying on of orthopaedic foot surgery by a chiropodist or podiatrist except when it is carried on by a registered service provider which is an independent hospital, a NHS Trust, a NHS Foundation Trust or a provider of primary medical services.
Blood and transplant services	The management of supply of blood and blood derived products etc. within paragraph 8 of Schedule 1 to the 2014 Regulations where the carrying on of that regulated activity is the sole or primary regulated activity carried on by a registered service provider.
Fertility services licenced by the Human Fertilisation and Embryology Authority	The carrying on of surgical procedures in connection with any of the activities listed in Schedule 2 (activities for which licences may be granted) to the Human Fertilisation and Embryology Act 1990(a) for which a licence has been granted under section 16 (grant of licence) of that Act (b).
Independent pathology laboratories	Diagnostic and screening procedures within paragraph 7 of Schedule 1 to the 2014 Regulations where performed or provided under a contract for services with another registered service provider except when the regulated activity is carried on by a registered provider which is an independent hospital, a NHS Trust, a NHS Foundation Trust or a provider of primary medical services.
Children’s homes	Any regulated activity carried on in a children’s home except where it is carried on by a registered service provider which is a NHS Trust, a NHS Foundation Trust or a provider of primary medical services.

(2) In this regulation—

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- (a) 1990 c.37. Schedule 2 was amended by Schedule 2 and Part 1 of Schedule 8 to the Human Fertilisation and Embryology Act 2008 (c.22) and S.I. 2007/1522.
 - (b) Section 16 was amended by section 16 of, and Part 1 of Schedule 8 to, the Human Fertilisation and Embryology Act 2008 and S.I. 2007/1522.

“the 2006 Act” means the National Health Service Act 2006(a)

“the 2014 Regulations” mean the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(b)

“children’s home” means a children’s home within the meaning of section 1 (children’s homes) of the Care Standards Act 2000 (c);

“chiroprapist or podiatrist” means a person registered with the Health and Care Professions Council as a chiroprapist or podiatrist pursuant to article 5 (establishment and maintenance of register) of the Health and Social Work Professions Order 2001(d).

“immigration removal centre” means pre-departure accommodation, a short-term holding facility or a removal centre within the meaning of section 147 (interpretation) of the Immigration and Asylum Act 1999(e);

“independent hospital” means a hospital which is not a health service hospital as defined in section 275 (interpretation) of the 2006 Act;

“NHS Foundation Trust” means a foundation trust as defined in section 30 (NHS foundation trusts) of the 2006 Act (f);

“NHS Trust” means a trust established under section 25 (NHS trusts) of the 2006 Act (g);

“place for the detention of young offenders” means a place which may be provided for the detention of young offenders under section 43(1) (places for the detention of young offenders) of the Prison Act 1952(h);

“Prison” means a prison within the meaning of the Prison Act 1952(i);

“provider of primary medical services” means a provider whose sole or main purpose is the provision of primary medical services pursuant to sections 83(2) (primary medical services), 84 (general medical services contracts) or 92 (arrangements by the Board for the provision of primary medical services) of the 2006 Act (j);

“sexual assault referral centre” is a facility wholly or mainly used to provide treatment, care and support to people who have sustained sexual assault or sexual abuse.

Review

- 3.—(1) Before the end of each review period, the Secretary of State must—
- (a) carry out a review of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report before Parliament.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by the system of reviews and performance assessments established by section 46(1) of the Health and Social Care Act 2008;
 - (b) assess the extent to which these Regulations enable those objectives to be achieved; and

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- (a) 2006 c.41.
- (b) S.I. 2014/2936, as amended by S.I. 2015/64, 643 and 664 and S.I. 2016/765.
- (c) 2000 c.14. Section 1 was amended by paragraph 2 of Schedule 5 to the Health and Social Care Act 2008 (c.14).
- (d) S.I. 2002/254, as amended by S.I. 2009/1182.
- (e) 1999 c.33. The definition of “pre-departure accommodation” was inserted into section 147 by section 6 of the Immigration Act 2014 (c.22); the definition of “removal centre” was inserted into section 147 by section 66 of the Nationality, Immigration and Asylum Act 2002 (c.41) and was amended by section 6 of the Immigration Act 2014 (c. 22); the definition of “short-term holding facility” was amended by section 25 of the Borders, Citizenship and Immigration Act 2009 (c.11) and section 6 of the Immigration Act 2014(c.22).
- (f) Section 30 was amended by section 159(1) of the Health and Social Care Act 2012 (c.7).
- (g) 1952 c.52.
- (h) Section 43(1) was substituted by section 38 of the Criminal Justice and Courts Act 2015 (c.2).
- (i) 1952 c.52.
- (j) Sections 83, 84 and 92 of the 2006 Act were amended by section 55(1) of, and paragraphs 30, 31 and 36 of Schedule 4 to, the Health and Social Care Act 2012.

(c) assess whether those objectives could be better achieved by changing what these Regulations prescribe for the purposes of such a system.

(3) In this regulation, “review period” means—

(a) the period of eighteen months beginning with the day on which these Regulations come into force, and

(b) subject to paragraph (4), each successive period of five years.

(4) If a report under this regulation is laid before Parliament before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is laid.

Revocation, saving and transitional provision

4.—(1) Subject to paragraph (2), the Care Quality Commission (Reviews and Performance Assessments) Regulations 2014(**a**) and the Care Quality Commission (Reviews and Performance Assessments) Amendment Regulations 2017(**b**) are revoked.

(2) In respect of any review or performance assessment commenced by the Commission under section 46 of the Health and Social Care Act 2008 before the coming into force of these Regulations—

(a) regulations 2 and 3 do not apply; and

(b) the Care Quality Commission (Reviews and Performance Assessments) Regulations 2014 continue to apply.

(a) S.I. 2014/1788 as amended by S.I. 2017/914.

(b) S.I. 2017/914.

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

18th January 2018

Caroline Dinenege
Minister of State,
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 46 of the Health and Social Care Act 2008 (“the 2008 Act”) imposes a duty on the Care Quality Commission (“the CQC”) to conduct reviews and performance assessments of the carrying on by prescribed registered service providers of such regulated activities as may be prescribed and to publish reports of such assessments. These Regulations prescribe the registered service providers and regulated activities for those purposes.

Regulation 2 prescribes all registered service providers and all regulated activities except those activities set out in the table.

Regulation 3 requires the Secretary of State to review these Regulations and lay a report before Parliament within 18 months after they come into force and within every five years after that. Following the review it will fall to the Secretary of State to consider whether the Regulations should remain as they are or be revoked or amended. A further instrument would be needed to revoke the Regulations or to amend them.

Regulation 4 revokes the Care Quality Commission (Reviews and Performance Assessments) Regulations 2014 (S.I. 2014/1788) in respect of new reviews and performance assessments, but saves its application in respect of reviews and performance assessments commenced by the CQC before commencement of these Regulations.

An impact assessment has not been prepared for this instrument as no significant impact on the private or voluntary sectors is foreseen.

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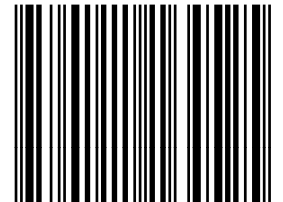
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