
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England only, amend the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (“the 2014 Regulations”) for the purposes of preventing, detecting and controlling the spread of infections, specifically in response to the effects of the coronavirus pandemic.

Regulation 1 provides that these Regulations will come into force 16 weeks after these Regulations have been made.

Regulation 2 states that these Regulations extend to England and Wales and apply to England only.

Regulation 4 amends regulation 2 (interpretation) of the 2014 Regulations. Regulation 4 specifies that for the purposes of the amendments made to regulation 12 (safe care and treatment) by these Regulations, the term “premises” does not include “any surrounding grounds”. Regulation 4 also specifies that the new provisions in the 2014 Regulations relating to the processing of information are to be interpreted in accordance with the Data Protection Act 2018.

Regulation 5 amends regulation 12 of the 2014 Regulations. The amendment provides that for the purposes of preventing, detecting and controlling the spread of infection, registered persons (“A”) in respect of the regulated activity of providing residential accommodation together with nursing or personal care in a care home, must secure that a person (“B”) does not enter the premises used by A unless B meets specific requirements.

Those requirements are that: (a) B is a service user of the regulated activity residing in the premises used by A; (b) B has provided A with evidence that satisfies A that they have been vaccinated with the complete course of an authorised vaccine or that B has provided A with evidence that satisfies A that for clinical reasons B should not be vaccinated with an authorised vaccine; (c) that it is reasonably necessary for B to provide emergency assistance in the premises; (d) that it is reasonably necessary for B to provide urgent maintenance assistance with respect to the premises; (e) B is attending the premises used by A in the execution of B’s duties as a member of the emergency services; (f) B is a friend or relative of the service user that is or has been residing in the premises; (g) B is visiting a service user who believes is dying; (h) it is reasonably necessary for B to provide comfort or support to a service user in relation to a service user’s bereavement following the death of a friend or relative; or (i) B is under the age of 18. The amendment also provides that relevant persons may process information obtained under the requirements in accordance with the Data Protection Act 2018.

Regulation 6 amends regulation 17 (good governance) of the 2014 Regulations. Regulation 17 provides that systems or processes must be established and operated effectively to ensure compliance with the requirements in that part of the 2014 Regulations. This includes the amendments made to regulation 12 by these Regulations. Regulation 6 amends regulation 17 to state that the provision of systems or processes includes securely maintaining such records as are necessary to be kept in relation to the new requirements inserted by these Regulations in regulation 12.

Regulation 7 requires the Secretary of State to review the operation and effect of these Regulations and to publish the report within one year after the date on which these Regulations come into force and within every year after that.

A full impact assessment of the costs and benefits of this instrument is available from the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU and is published alongside this instrument and its Explanatory Memorandum at [legislation.gov.uk](https://www.legislation.gov.uk).