



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Emergency powers

46 Role of the Board and clinical commissioning groups in respect of emergencies

For the cross-heading preceding section 253 of the National Health Service Act 2006 substitute “Emergencies: role of the Secretary of State, the Board and clinical commissioning groups” and after the cross-heading insert—

“252A Role of the Board and clinical commissioning groups in respect of emergencies

- (1) The Board and each clinical commissioning group must take appropriate steps for securing that it is properly prepared for dealing with a relevant emergency.
- (2) The Board must take such steps as it considers appropriate for securing that each clinical commissioning group is properly prepared for dealing with a relevant emergency.
- (3) The steps taken by the Board under subsection (2) must include monitoring compliance by each clinical commissioning group with its duty under subsection (1).
- (4) The Board must take such steps as it considers appropriate for securing that each relevant service provider is properly prepared for dealing with a relevant emergency.
- (5) The steps taken by the Board under subsection (4) must include monitoring compliance by the service provider with any requirements imposed on it by its service arrangements for the purpose of securing that it is properly prepared for dealing with a relevant emergency.

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- (6) The Board may take such steps as it considers appropriate for facilitating a co-ordinated response to an emergency by the clinical commissioning groups and relevant service providers for which it is a relevant emergency.
- (7) The Board may arrange for any body or person to exercise any functions of the Board under subsections (2) to (6).
- (8) Where the Board makes arrangements with another body or person under subsection (7) it may also arrange for that other body or person to exercise any functions that the Board has, by virtue of being a Category 1 responder, under Part 1 of the Civil Contingencies Act 2004.
- (9) A relevant service provider must appoint an individual to be responsible for—
 - (a) securing that the provider is properly prepared for dealing with a relevant emergency,
 - (b) securing that the provider complies with any requirements mentioned in subsection (5), and
 - (c) providing the Board with such information as it may require for the purpose of discharging its functions under this section.
- (10) In this section—
 - “relevant emergency”—
 - (a) in relation to the Board or a clinical commissioning group, means any emergency which might affect the Board or the group (whether by increasing the need for the services that it may arrange or in any other way);
 - (b) in relation to a relevant service provider, means any emergency which might affect the provider (whether by increasing the need for the services that it may provide or in any other way);
 - “relevant service provider” means any body or person providing services in pursuance of service arrangements;
 - “service arrangements”, in relation to a relevant service provider, means arrangements made by the Board or a clinical commissioning group under or by virtue of section 3, 3A, 3B, 4 or 7A or Schedule 1.”

47 Secretary of State’s emergency powers

- (1) Section 253 of the National Health Service Act 2006 (emergency powers) is amended as follows.
- (2) In subsection (1) for the words from “it is necessary” to the end of the subsection substitute “it is appropriate to do so”.
- (3) After subsection (1) insert—
 - “(1A) A direction under this section may be given to—
 - (a) an NHS body other than a Local Health Board;
 - (b) the National Institute for Health and Care Excellence;
 - (c) the Health and Social Care Information Centre;
 - (d) any body or person, other than an NHS body, providing services in pursuance of arrangements made—
 - (i) by the Secretary of State under section 12,

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- (ii) by the Board or a clinical commissioning group under section 3, 3A, 3B or 4 or Schedule 1,
 - (iii) by a local authority for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) or Schedule 1, or
 - (iv) by the Board, a clinical commissioning group or a local authority by virtue of section 7A.”
- (4) For subsection (2) substitute—
- “(2) In relation to a body within subsection (1A)(a) to (c), the powers conferred by this section may be exercised—
- (a) to give directions to the body about the exercise of any of its functions;
 - (b) to direct the body to cease to exercise any of its functions for a specified period;
 - (c) to direct the body to exercise any of its functions concurrently with another body or person for a specified period;
 - (d) to direct the body to exercise any function conferred on another body or person under or by virtue of this Act for a specified period (whether to the exclusion of, or concurrently with, that body or person).
- (2A) In relation to a body or person within subsection (1A)(d), the powers conferred by this section may be exercised—
- (a) to give directions to the body or person about the provision of any services that it provides in pursuance of arrangements mentioned in subsection (1A)(d);
 - (b) to direct the body or person to cease to provide any of those services for a specified period;
 - (c) to direct the body or person to provide other services for the purposes of the health service for a specified period.”
- (5) After subsection (2A) insert—
- “(2B) The Secretary of State may direct the Board to exercise the functions of the Secretary of State under this section.
- (2C) The Secretary of State may give directions to the Board about its exercise of any functions that are the subject of a direction under subsection (2B).
- (2D) In this section, “specified” means specified in the direction.”
- (6) Omit subsection (4) (exclusion of NHS foundation trusts from application of emergency powers).
- (7) In section 273 of that Act (further provision about orders and directions under the Act), in subsection (4)(c)(ii), for “or 120” substitute “, 120 or 253”.