

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – The Health Service in England

Arrangements for provision of health services

Section 13 - Duties of clinical commissioning groups as to commissioning certain health services

133. This section amends section 3 of the NHS Act to provide for the duties of CCGs in relation to commissioning certain health services.
134. CCGs would be the appropriate commissioners under the NHS Act, unless there is a duty on the NHS Commissioning Board to commission that service. Subsections (1) and (2) amend section 3 of the NHS Act to provide that CCGs must arrange for the provision of the services and facilities in section 3(1) of the NHS Act to such extent as they consider necessary to meet the reasonable requirements of the persons for whom they have responsibility.
135. The persons for whom CCGs will be responsible are set out in new section 3(1A) – that is, those persons who are provided with primary medical services by a member of the CCG and those persons who usually reside in the CCG’s area and are not provided with primary medical services by another member of any CCG. Under new section 3(1B), persons who have a prescribed connection with the CCG’s area or who have previously been provided with a service by a member or former member of a CCG, may also be the responsibility of a CCG, where regulations so provide. This could, for example, include people who are receiving continuing healthcare for a long term condition. New section 3(1C) makes it clear that the regulation-making power in new section 3(1B) must be exercised so as to provide that CCGs are responsible for providing emergency care to everyone present in their area.
136. New section 3(1D) provides that regulations may provide that CCGs do not have responsibility for certain people or cases that would otherwise meet the criteria in new section 3(1A). It is intended that this power will be exercised, for example, in order that people who are resident in Scotland, but registered with a practice that is a member of a CCG are not the responsibility of a CCG for these purposes. Subsection (8) of section 13 of the Act makes these regulations subject to the affirmative procedure in Parliament.
137. New section 3(1E) sets out that CCGs are not under a duty to commission a service or facility if the NHS Commissioning Board is under a duty to do so.
138. New section 3(1F) requires that CCGs in exercising their functions under this section, and section 3A of the NHS Act 2006 (inserted by section 14 of the Act), must act consistently with the duty on the Secretary of State, and the NHS Commissioning Board, under section 1 of the NHS Act to promote a comprehensive health service, and with the mandate published by the Secretary of State under section 13A of the NHS Act (inserted by section 23 of the Act).