



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Arrangements for provision of health services

20 Regulations as to the exercise of functions by the Board or clinical commissioning groups

(1) After section 6D of the National Health Service Act 2006 insert—

“6E Regulations as to the exercise of functions by the Board or clinical commissioning groups

- (1) Regulations may impose requirements (to be known as “standing rules”) in accordance with this section on the Board or on clinical commissioning groups.
- (2) The regulations may, in relation to the commissioning functions of the Board or clinical commissioning groups, make provision—
 - (a) requiring the Board or clinical commissioning groups to arrange for specified treatments or other specified services to be provided or to be provided in a specified manner or within a specified period;
 - (b) as to the arrangements that the Board or clinical commissioning groups must make for the purpose of making decisions as to—
 - (i) the treatments or other services that are to be provided;
 - (ii) the manner in which or period within which specified treatments or other specified services are to be provided;
 - (iii) the persons to whom specified treatments or other specified services are to be provided;
 - (c) as to the arrangements that the Board or clinical commissioning groups must make for enabling persons to whom specified treatments

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or other specified services are to be provided to make choices with respect to specified aspects of them.

- (3) Regulations by virtue of paragraph (b) of subsection (2) may, in particular, make provision—
- (a) requiring the Board or a clinical commissioning group to take specified steps before making decisions as to the matters mentioned in that paragraph;
 - (b) as to reviews of, or appeals from, such decisions.
- (4) The regulations may—
- (a) specify matters for which provision must be made in commissioning contracts entered into by the Board or clinical commissioning groups;
 - (b) require the Board to draft terms and conditions making provision for those matters;
 - (c) require the Board or clinical commissioning groups to incorporate the terms and conditions drafted by virtue of paragraph (b) in commissioning contracts entered into by the Board or (as the case may be) clinical commissioning groups.
- (5) The regulations must—
- (a) require the Board to draft such terms and conditions as the Board considers are, or might be, appropriate for inclusion in commissioning contracts entered into by the Board or clinical commissioning groups (other than terms and conditions that the Board is required to draft by virtue of subsection (4)(a));
 - (b) authorise the Board to require clinical commissioning groups to incorporate terms and conditions prepared by virtue of paragraph (a) in their commissioning contracts;
 - (c) authorise the Board to draft model commissioning contracts.
- (6) The regulations may require the Board to consult prescribed persons before exercising any of its functions by virtue of subsection (4)(b) or (5).
- (7) The regulations may require the Board or clinical commissioning groups in the exercise of any of its or their functions—
- (a) to provide information of a specified description to specified persons in a specified manner;
 - (b) to act in a specified manner for the purpose of securing compliance with EU obligations;
 - (c) to do such other things as the Secretary of State considers necessary for the purposes of the health service.
- (8) The regulations may not impose a requirement on only one clinical commissioning group.
- (9) If regulations under this section are made so as to come into force on a day other than 1 April, the Secretary of State must—
- (a) publish a statement explaining the reasons for making the regulations so as to come into force on such a day, and
 - (b) lay the statement before Parliament.
- (10) In this section—

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- (a) “commissioning contracts”, in relation to the Board or clinical commissioning groups, means contracts entered into by the Board or (as the case may be) clinical commissioning groups in the exercise of its or their commissioning functions;
 - (b) “commissioning functions”, in relation to the Board or clinical commissioning groups, means the functions of the Board or (as the case may be) clinical commissioning groups in arranging for the provision of services as part of the health service;
 - (c) “specified” means specified in the regulations.”
- (2) In section 272 of that Act (orders, regulations, rules and directions), in subsection (6) after paragraph (zzb) insert—
- “(zxc) regulations under section 6E, except where they do not include provision by virtue of subsection (7)(c) of that section,”.