

2014 No. 1611

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service Commissioning Board and Clinical
Commissioning Groups (Responsibilities and Standing Rules)
(Amendment) (No. 3) Regulations 2014**

<i>Made</i> - - - -	<i>19th June 2014</i>
<i>Laid before Parliament</i>	<i>26th June 2014</i>
<i>Coming into force</i> - -	<i>1st October 2014</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 6E(1), (2) and (3) and 272(7) and (8) of the National Health Service Act 2006(a) and section 75 of the Health and Social Care Act 2012(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 3) Regulations 2014 and come into force on 1st October 2014.

(2) In these Regulations, “the 2012 Regulations” means the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012(c).

Amendment in relation to citation

2. In regulation 1 of the 2012 Regulations (citation and commencement), in paragraph (1) after “These Regulations may be cited as” insert “the”.

Amendments in relation to Standing Rules: NHS Continuing Healthcare and NHS funded nursing care

3.—(1) In regulation 20 of the 2012 Regulations (interpretation)—

(a) for the definition of “flat rate payment” substitute—

““flat rate payment” except in regulation 29(1), means a payment of £110.89 per week;”;

and

(b) for the definition of “high band payment” substitute—

(a) 2006 c. 41. Section 6E of the National Health Service Act 2006 (“the 2006 Act”) was inserted by section 20 of the Health and Social Care Act 2012 (c. 7). By virtue of section 271(1) of the 2006 Act, the powers exercised in making these Regulations are exercisable by the Secretary of State in relation to England only. See section 275(1) of the 2006 Act for the definition of “regulations”.

(b) 2012 c.7.

(c) S.I. 2012/2996, amended by S.I. 2013/261, 2013/2891, 2014/91, 2014/452.

““high band payment” except in regulation 30(1), means a payment of £152.61 per week;”.

(2) In regulation 28 of the 2012 Regulations (persons who enter relevant premises or who develop a need for nursing care), in paragraph (6), after “flat rate”, insert “payment”.

(3) In regulation 29 of the 2012 Regulations (persons in receipt of flat rate payments immediately before the relevant date), in paragraph (2), delete the words “continue to” and “on and after the relevant date”.

(4) In regulation 30 of the 2012 Regulations (persons in receipt of high band payments immediately before the relevant date), in paragraph (2) delete the words “continue to” and “on and after the relevant date”.

Amendments in relation to personal health budgets

4.—(1) In regulation 32A of the 2012 Regulations (interpretation), in the definition of “personal health budget”, before “a relevant health service” insert “all or part of”.

(2) In regulation 32B of the 2012 Regulations (duties of relevant bodies in relation to personal health budgets) —

(a) for paragraph (4), substitute—

“(4) Where a request is made by or on behalf of an eligible person for a personal health budget, a relevant body must grant that request, save to the extent that it is not appropriate to secure provision of all or any part of the relevant health service by that means in the circumstances of the eligible person’s case.

(4A) Where a relevant body arranges a personal health budget under paragraph (4), it must decide which of the ways mentioned in paragraph (2) would be the most appropriate way in which to manage that personal health budget.”;

(b) in paragraph (7), after “eligible person” insert “in full or in part”; and

(c) in paragraph (8), for the words “On receipt of written reasons in accordance with paragraph (7),” substitute—

“(8) On receipt of—

(a) a decision under paragraph (4A); or

(b) written reasons in accordance with paragraph (7).”.

Amendment in relation to choice of health service provider

5. In regulation 41(b) of the 2012 Regulations (persons to whom the duties as to choice do not apply), after “prison” insert “or other accommodation described in regulation 10(2)”.

Amendment of Schedule 5 (Persons disqualified from being a chair, CCG member or social services authority member of a review panel)

6. In Schedule 5 to the 2012 regulations, in paragraph 6, for “A person’s term” substitute “A person whose term”.

Signed by authority of the Secretary of State for Health.

19th June 2014

Norman Lamb
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (S.I. 2012/2996) (“the 2012 Regulations”).

The Regulations –

- make minor corrections to Part 1 of and Schedule 5 to the 2012 Regulations (regulations 2 and 6),
- amend Part 6 of the 2012 Regulations to reflect increases to rates for NHS-funded Nursing Care payable by the relevant body (the National Health Service Commissioning Board or a clinical commissioning group) (regulation 3),
- amend Part 6A of the 2012 Regulations, which deals with personal health budgets for NHS Continuing Healthcare and continuing care for children. Regulation 32B is amended to require a relevant body to grant a personal health budget to a person who requests one, unless it is not appropriate in the circumstances. Regulation 32B is also amended to extend the right of review of a decision to refuse a personal health budget to a decision to refuse the request in full or in part, and to a decision on which type of personal health budget is most appropriate (regulation 4), and
- amend Part 8 of the 2012 Regulations by providing that duties as to choice of health service provider do not apply in the case of persons detained in or on temporary release from certain accommodation (regulation 5).

A copy of the impact assessment relating to the provisions of regulation 4 is available from the Department of Health, Richmond House, 79 Whitehall, SW1A 2NS and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. No separate impact assessment has been prepared in respect of regulations 2, 3, 5 and 6, as minimal impact on the private or voluntary sectors is foreseen.

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