
STATUTORY INSTRUMENTS

2015 No. 415

**The National Health Service Commissioning Board
and Clinical Commissioning Groups (Responsibilities
and Standing Rules) (Amendment) Regulations 2015**

Amendments in relation to NHS funded nursing care

3. In regulation 28 (persons who enter relevant premises or who develop a need for nursing care) of the principal Regulations—

- (a) in paragraph (5), after “paragraph (6)”, insert “or, as the case may be, (6A)”; and
- (b) after paragraph (6), insert—

“(6A) Where the relevant body consents to the arrangement by a local authority, in accordance with section 22(4) and, where applicable, sections 22(5) and 22(9) of the Care Act 2014⁽¹⁾, for the provision of nursing care in accommodation arranged by the local authority in Northern Ireland or Scotland, the relevant body must pay to the relevant provider in respect of the person receiving nursing care—

- (a) £100 per week, where nursing care is provided in accommodation in Northern Ireland, or
- (b) £78 per week, where nursing care is provided in accommodation in Scotland, unless or until paragraph (6B) applies.

(6B) This paragraph applies where a person receiving nursing care in accommodation in Northern Ireland or Scotland—

- (a) has their need for nursing care assessed and it is determined that that person no longer has any need for nursing care;
- (b) is no longer resident in that accommodation;
- (c) becomes eligible for NHS Continuing Healthcare pursuant to this Part; or
- (d) dies.

(6C) In paragraphs (6A) and (6B)—

“accommodation” means—

- (a) in relation to Northern Ireland, residential or other accommodation in Northern Ireland of a type which may be provided under article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²⁾ and includes a nursing home within the meaning of article 11 of the Health and Personal Social Services (Quality Improvement and Regulation) (Northern Ireland) Order 2003⁽³⁾;

(1) 2014 c. 23. Section 22 is modified by Schedule 1, paragraph 1(2) and (5)(a) to (c), to that Act.
(2) S.I. 1972/1265 (N.I. 14), relevant amendments to which were made by S.I.1991/194 (N.I. 1), S.I. 1992/3204 (N.I. 20), the Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002 (c.5), section 4 and the Schedule, and by the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), section 36 and Schedule 6, paragraph 3(6).
(3) S.I. 2003/431 (N.I. 9), amended by the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), section 32, Schedule 6, paragraph 1(1)(d) (with Schedule 6, paragraph 1(3)).

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- (b) in relation to Scotland, residential accommodation in Scotland of a type which may be provided under or by virtue of section 12(4) or 13A(5) of the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003(6);

“local authority” has the same meaning as in section 1(4) of the Care Act 2014(7); and

“relevant provider” means—

- (a) in relation to Northern Ireland, the person registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(8) in respect of that accommodation;
- (b) in relation to Scotland, the person who provides in respect of that accommodation a care service registered under section 59 of the Public Services Reform (Scotland) Act 2010(9).”.

(4) 1968 c. 49. Section 12 was amended by the National Health Care and Community Service Act 1990 (c. 19) (“the 1990 Act”), section 66(1), Schedule 9, paragraph 10(5), by the Children (Scotland) Act 1995 (c. 36) Schedule 4, paragraph 15(11), by the Immigration and Asylum Act 1999 (c.33) (“the 1999 Act”), section 120(1), by the Community Care and Health (Scotland) Act 2002 (asp 5) (“the 2002 Act”), section 3, and was modified by S.I. 1991/536, (S.45), regulation 3.

(5) Section 13A was amended by the 1990 Act, section 56, by the 1999 Act, section 120(2), by the Regulation of Care (Scotland) Act 2001 (asp 8), section 72(a) and Schedule 3, paragraph 4(3), by the 2002 Act, Schedule 2, paragraph 1(4), and by S.S.I. 2011/211, Schedule 1(1), paragraph 3(b), and Schedule 2(1), paragraph 1.

(6) 2003 asp 13. Section 25 was amended by SSI 2011/211, Schedule 1(1), paragraph 13(3).

(7) The definition is limited to local authorities in England.

(8) S.I. 2003/431 (N.I. 9). Article 12(3) was amended by the Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), Schedule 1, paragraph 1(1)(b).

(9) 2010 asp 8. See section 47 for the definition of “care service”.