

2024 No. 16

NATIONAL HEALTH SERVICE, ENGLAND

**The Local Authority (Public Health, Health and Wellbeing Boards
and Health Scrutiny) (Amendment and Saving Provision)
Regulations 2024**

<i>Made</i> - - - -	<i>8th January 2024</i>
<i>Laid before Parliament</i>	<i>9th January 2024</i>
<i>Coming into force</i> - -	<i>31st January 2024</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 9JA and 105(2) of the Local Government Act 2000(a) and sections 244(2), (2ZA), (2ZB), (2ZC) and (2ZE), 245 and 272(7) and (8) of the National Health Service Act 2006(b).

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations—

- (a) may be cited as the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment and Saving Provision) Regulations 2024;
- (b) come into force on 31st January 2024;
- (c) extend to England and Wales and apply in England.

(2) In these Regulations, “the 2013 Regulations” means the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013(c).

Amendment of the 2013 Regulations

2.—(1) The 2013 Regulations are amended as follows.

- (2) In regulation 23 (consultation by responsible persons)—
 - (a) after paragraph (5) insert—

(a) 2000 c. 22 (“the 2000 Act”). Section 9JA was inserted by paragraph 1 of Schedule 2 to the Localism Act 2011 (c. 20). There are no relevant amendments to section 105 of the 2000 Act.

(b) 2006 c. 41 (“the 2006 Act”). Section 244 was amended by section 121(4) of the Local Government and Public Involvement in Health Act 2007 (c. 28) (“the 2007 Act”), paragraph 74 of Schedule 3 to the Localism Act 2011 (c. 20) (“the 2011 Act”), section 190(1) to (7) of the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”) and paragraph 1 of Schedule 1, paragraph 122 of Schedule 4, paragraph 25 of Schedule 5 and paragraph 12 of Schedule 9 to the Health and Care Act 2022 (c. 31). Section 245 was amended by section 127(3) of the 2007 Act, paragraphs 73 and 75 of Schedule 3 to the 2011 Act and section 191(1) to (5) of the 2012 Act. The powers conferred by the 2006 Act which are exercised in making these Regulations are exercisable by the Secretary of State only in relation to England by virtue of section 271(1) of the 2006 Act.

(c) S.I. 2013/218; relevant amendments were made by S.I. 2022/634 (to change references from clinical commissioning groups to integrated care boards) and S.I. 2023/1071 (to change references from NHS Commissioning Board to NHS England).

“(5A) R must take into consideration any direction given to it under paragraph 3(1) of Schedule 10A to the 2006 Act when discharging its duties under this regulation.”;

(b) omit paragraphs (6) to (11).

(3) Omit regulation 25 (decisions and directions by the Secretary of State or NHS England).

(4) In regulation 29 (restrictions on arrangements for discharge of health scrutiny functions under section 101 of the 1972 Act), omit paragraph (1).

(5) In regulation 30 (joint committees), omit paragraph (4).

Saving provision

3.—(1) Part 4 of the 2013 Regulations, as it had effect immediately before 31st January 2024, continues to apply on and after that date in relation to any existing referred proposal.

(2) In this regulation—

(a) “existing referred proposal” means a proposal in relation to which a local authority, or a joint overview and scrutiny committee, has made a report to the Secretary of State under regulation 23(9) of the 2013 Regulations before 31st January 2024;

(b) “joint overview and scrutiny committee” and “local authority” have the meanings given in regulation 20(1) of the 2013 Regulations.

Signed by authority of the Secretary of State for Health and Social Care.

8th January 2024

Andrew Stephenson
Minister of State
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (S.I. 2013/218) (“the 2013 Regulations”). This is necessary due to the coming into force of Schedule 10A to the National Health Service Act 2006 (c. 41) (“the 2006 Act”) (see the Health and Care Act 2022 (Commencement No. 8 and Transitional and Saving Provision) Regulations 2023 (S.I. 2023/1431)). Paragraph 3(1) of Schedule 10A introduces a new power for the Secretary of State to intervene in respect of proposed reconfigurations of NHS services. Part 4 of the 2013 Regulations makes provision in relation to the functions of local authorities in scrutinising proposed changes to health services in their areas and includes the ability to report certain reconfiguration proposals to the Secretary of State. These Regulations make changes to the local scrutiny procedure set out under the 2013 Regulations in light of the new Secretary of State intervention power.

Regulation 2 inserts a provision into regulation 23 of the 2013 Regulations, which provides that a responsible person (namely NHS England or an integrated care board) must consider any direction given to it under paragraph 3(1) of Schedule 10A to the 2006 Act when discharging its duties under Regulation 23 of the 2013 Regulations. The regulation also omits other provisions within the 2013 Regulations to remove the ability of local authorities and joint overview and scrutiny committees to report proposals to the Secretary of State under regulation 23(9) of the 2013 Regulations and to remove Secretary of State and NHS England powers in relation to those reports.

Regulation 3 contains saving provision such that proposals that have been reported to the Secretary of State by a local authority or joint overview and scrutiny committee before the coming into force of these Regulations are subject to the pre-existing procedures in Part 4 of the 2013 Regulations.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

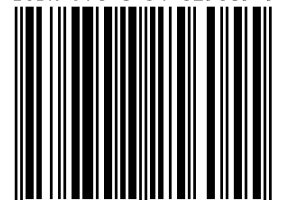
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