STATUTORY INSTRUMENTS

# 2016 No. 293

# MENTAL HEALTH, ENGLAND
# NATIONAL HEALTH SERVICE, ENGLAND

## The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2016

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| *Made - - - -* | *3rd March 2016* |
| *Laid before Parliament* | *10th March 2016* |
| *Coming into force - -* | *1st April 2016* |

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by section 117(2E) and (2G) of the Mental Health Act 1983(**1**) and sections 3B(1), 6E(1), (2) and (4) and 272(7) and (8) of the National Health Service Act 2006(**2**).

Before deciding to make regulations under section 3B of the National Health Service Act 2006, the Secretary of State obtained appropriate advice and consulted the National Health Service Commissioning Board in accordance with subsection (4) of that section.

**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) Regulations 2016 and come into force on 1st April 2016.

(2) In these Regulations—

"the 1983 Act" means the Mental Health Act 1983;

"the principal Regulations" means the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012(**3**).

(**1**) 1983 c.20. Section 117(2E) and (2G) of the Mental Health Act 1983 ("the 1983 Act") was inserted by section 40 of the Health and Social Care Act 2012 (c.7) ("the 2012 Act").

(**2**) 2006 c.41. Section 3B of the National Health Service Act 2006 ("the 2006 Act") was inserted by section 15 of the 2012 Act. Section 6E of the 2006 Act was inserted by section 20(1) of the 2012 Act. 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 definitions of "prescribed" and "regulations".

(**3**) S.I. 2012/2996; relevant amendments to which were made by S.I. 2014/452, 2014/3215 and 2015/415.

### Amendment to regulation 14 of the principal Regulations

**2.** In regulation 14 of the principal Regulations (circumstances in which a duty to provider after-care services under section 117(2) of the 1983 Act(**4**) may be imposed on another clinical commissioning group), omit paragraph (2)(a).

### Amendments to regulation 16 of the principal Regulations

**3.** In regulation 16 of the principal Regulations (matters to be included in commissioning contracts)—

(a) for paragraph (1), substitute—

"(1) A commissioning contract entered into by a relevant body must contain terms and conditions that ensure that the health service provider complies with all the duties imposed upon a registered person by regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(**5**) (duty of candour) ("the 2014 Regulations"), as modified by paragraph (1B), irrespective of whether—

(a) the health service provider is a registered person; or

(b) the health service provider is carrying on a regulated activity.";

(b) after paragraph (1A), insert—

"(1B) For the purposes of paragraph (1), regulation 20 of the 2014 Regulations is modified as follows—

(a) for "Registered persons" in paragraph (1), substitute "Health service providers";

(b) for "registered person", in each place it appears, substitute "health service provider";

(c) in paragraph (1), omit "in carrying on a regulated activity"; and

(d) in paragraphs (8) and (9) for "a regulated activity", substitute "health care services";"; and

(c) in paragraph (2)—

(i) omit the definitions of "appropriate apology", "patient safety incident", "relevant person" and "relevant information"; and

(ii) after the definition of "LETB", insert—

""registered person" has the same meaning as in regulation 2(1) of the 2014 Regulations (interpretation);

"regulated activity" means an activity prescribed as a regulated activity for the purposes of section 8(1) of the Health and Social Care Act 2008(**6**) (regulated activity) by regulation 3 of the 2014 Regulations (prescribed activities).".

(**4**) 1983 c.20. Section 117(2) of the 1983 Act was amended by section 1(2) of, and paragraphs 15(1) and (3) of Schedule 1 to, the Mental Health (Patients in the Community) Act 1995 (c.52); section 2(5) of, and paragraphs 42 and 47 of Schedule 2 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17); section 32(4) of, and paragraphs 1 and 24 of Schedule 3 to, the Mental Health Act 2007 (c.12); section 40(1) and (2) of the 2012 Act; section 75(1) of the Care Act 2014 (c.23); and S.I. 2007/961.

(**5**) S.I. 2014/2936; relevant amendments to which were made by S.I. 2015/64.

(**6**) 2008 c.14.