STATUTORY INSTRUMENTS

2015 No. 314

SOCIAL CARE, ENGLAND

The Care and Support (Market Oversight Criteria) Regulations 2015

Made - - - - 11th February 2015

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 53(1) and 125(7) and (8) of the Care Act 2014(**1**).

The Secretary of State has had regard to the matters specified in section 53(2) of the Care Act 2014 in making these Regulations.

In accordance with section 125(4)(g) of the Care Act 2014, a draft of these Regulations was laid before Parliament and was approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Market Oversight Criteria) Regulations 2015 and come into force immediately after section 53(1) of the Care Act 2014(**2**) comes fully into force.

(2) In these Regulations—

"the Act" means the Care Act 2014;

"the 2014 Regulations" means the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(**3**);

"group undertaking" has the meaning given by section 1161(5) of the Companies Act 2006(**4**);

"undertaking" has the meaning given by section 1161(1) of the Companies Act 2006.

(**1**) 2014 c.23 ("the Act"). The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1).
(**2**) Section 53(1) was commenced on 1 October 2014 for the purposes of making regulations by S.I. 2014/2473.
(**3**) S.I. 2014/2936.
(**4**) 2006 c.46. *See*S.I. 2008/1911 as to the application of section 1161(5) with modifications to limited liability partnerships.

Providers of personal care (non-residential)

2.—(1) Section 55 of the Act applies to a registered care provider(**5**) who is not a local authority(**6**) and who is registered in respect of the carrying on of the regulated activity set out in paragraph 1 of Schedule 1 to the 2014 Regulations (personal care) where—

(a) the number of hours of regulated care provided by the registered care provider in a week is 30,000 or more; or

(b) the number of people to whom regulated care is provided by the registered care provider in a week is 2,000 or more; or

(c) the number of—

(i) people to whom regulated care is provided by the registered care provider in a week is 800 or more; and

(ii) hours of regulated care provided by that provider in the same week divided by that number of people exceeds 30.

(2) In this regulation, "regulated care" means care provided in connection with the carrying on of the regulated activity set out in paragraph 1 of Schedule 1 to the 2014 Regulations (personal care).

(3) For the purpose of this regulation, where a registered care provider is an undertaking—

(a) the hours of regulated care provided by the provider include hours of regulated care provided by any group undertaking of the provider; and

(b) the number of people to whom regulated care is provided by the provider includes people to whom regulated care is provided by any group undertaking of the provider.

Providers of residential care

3.—(1) Section 55 of the Act applies to a registered care provider who is not a local authority and who is registered in respect of the carrying on of the regulated activity set out in paragraph 2 of Schedule 1 to the 2014 Regulations (accommodation for persons who require nursing or personal care) where the bed capacity of that provider is—

(a) 1,000 or more but less than 2,000 and where—

(i) the bed capacity of that provider is at least 1 in each of 16 or more local authority areas; or

(ii) the bed capacity of that provider in each of 3 or more local authority areas exceeds 10 per cent. of the total bed capacity in each of those local authority areas; or

(b) 2,000 or more.

(2) In this regulation—

"bed capacity" means the number of beds made available by a registered care provider in connection with the carrying on of the regulated activity set out in paragraph 2 of Schedule 1 to the 2014 Regulations (accommodation for persons who require nursing or personal care); and

"total bed capacity" means the number of beds made available by all registered care providers in connection with the carrying on of the regulated activity set out in paragraph 2 of Schedule 1 to the 2014 Regulations (accommodation for persons who require nursing or personal care).

(3) For the purpose of this regulation, where the registered care provider is an undertaking, the bed capacity of the provider includes the bed capacity of any group undertaking of the provider.

(**5**) *See* section 48(1) of the Act for the meaning of "registered care provider".
(**6**) *See* section 1(4) of the Act for the meaning of "local authority"; the definition is limited to local authorities in England.