STATUTORY INSTRUMENTS

2015 No. 64

NATIONAL HEALTH SERVICE, ENGLAND
SOCIAL CARE, ENGLAND
PUBLIC HEALTH, ENGLAND

The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015

Made - - - -	*26th January 2015*
Laid before Parliament	*28th January 2015*
Coming into force - -	*1st April 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 20(1), (3) and (5A), 35, 86(2), 87(1) and (2) and 161(3) and (4) of the Health and Social Care Act 2008(**1**).

In accordance with section 20(8) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015 and come into force on 1st April 2015.

Amendment of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

2. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(**2**) are amended as follows.

Amendment of regulation 1

3. In regulation 1 (citation and commencement), after paragraph (5) insert—

"(6) These Regulations cease to have effect after 31st March 2022."

(**1**) 2008 c. 14. See section 97(1) of the Health and Social Care Act 2008 ("the 2008 Act") for the definitions of "prescribed" and "regulations". Section 20 of the 2008 Act was amended by sections 81 and 95 of the Care Act 2014 (c. 23). Section 161(3) of the 2008 Act was amended by section 294(4) of the Health and Social Care Act 2012 (c. 7).

(**2**) S.I. 2014/2936.

Amendment of regulation 2

4. In regulation 2(1) (interpretation), at the end of the definition of "shared lives scheme" insert ", and for the purposes of section 20A of the Act (functions relating to processing of information by registered persons) "adult placement scheme" has the same meaning as "shared lives scheme"".

Amendment of regulation 4

5. In regulation 4 (requirements where the service provider is an individual or partnership)—

(a) after "qualifications", where it appears in both paragraphs (5) and (6), insert ", competence", and

(b) after paragraph (6) insert—

"(7) In assessing an individual's character for the purposes of paragraph (4)(a), the matters considered must include those listed in Part 2 of Schedule 4."

Amendment of regulation 5

6.—(1) Regulation 5 (fit and proper persons: directors) is amended as follows.

(2) For paragraph (1) substitute—

"(1) This regulation applies where the service provider is a body other than a partnership."

(3) In paragraph (2)—

(a) for "the service provider", in the first place it appears, substitute "a service provider", and

(b) in sub-paragraph (b), omit "such".

Amendment of regulation 6

7. In regulation 6 (requirement where the service provider is a body other than a partnership)—

(a) in paragraph (3)(b), after "qualifications" insert ", competence", and

(b) after paragraph (3) insert—

"(4) In assessing an individual's character for the purposes of paragraph (3)(a), the matters considered must include those listed in Part 2 of Schedule 4."

Amendment of regulation 7

8. In regulation 7 (requirements relating to registered managers)—

(a) in paragraph (2)(b), after "qualifications" insert ", competence", and

(b) after paragraph (2) insert—

"(3) In assessing an individual's character for the purposes of paragraph (2)(a), the matters considered must include those listed in Part 2 of Schedule 4."

Amendment of regulation 8

9. In regulation 8 (fundamental standards: general), for "9 to 19", in each place it appears, substitute "9 to 20A".

Amendment of regulation 20

10.—(1) Regulation 20 (duty of candour) is amended as follows.

(2) In paragraph (1), for "A health service body" substitute "Registered persons".

(3) In the following provisions, for "health service body" and "health service body's" substitute "registered person" and "registered person's" respectively—

(a) paragraph (2),

(b) paragraph (3)(a), (b), (c) and (e),

(c) paragraph (5), and

(d) paragraph (6).

(4) In paragraph (7)—

(a) for the definition of "notifiable safety incident" substitute—

""notifiable safety incident" has the meaning given in paragraphs (8) and (9);",

(b) after that definition insert—

""prolonged pain" means pain which a service user has experienced, or is likely to experience, for a continuous period of at least 28 days;", and

(c) in sub-paragraph (c) of the definition of "relevant person" omit "(as determined in accordance with sections 2 and 3 of the 2005 Act)".

(5) After paragraph (7) insert—

"(8) In relation to a health service body, "notifiable safety incident" means any unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that, in the reasonable opinion of a health care professional, could result in, or appears to have resulted in—

(a) the death of the service user, where the death relates directly to the incident rather than to the natural course of the service user's illness or underlying condition, or

(b) severe harm, moderate harm or prolonged psychological harm to the service user.

(9) In relation to any other registered person, "notifiable safety incident" means any unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that, in the reasonable opinion of a health care professional —

(a) appears to have resulted in—

(i) the death of the service user, where the death relates directly to the incident rather than to the natural course of the service user's illness or underlying condition,

(ii) an impairment of the sensory, motor or intellectual functions of the service user which has lasted, or is likely to last, for a continuous period of at least 28 days,

(iii) changes to the structure of the service user's body,

(iv) the service user experiencing prolonged pain or prolonged psychological harm, or

(v) the shortening of the life expectancy of the service user; or

(b) requires treatment by a health care professional in order to prevent—

(i) the death of the service user, or

(ii) any injury to the service user which, if left untreated, would lead to one or more of the outcomes mentioned in sub-paragraph (a)."

Requirement as to display of performance assessments

11. After regulation 20 insert—

"**Requirement as to display of performance assessments**

20A.—(1) This regulation applies where, and to the extent that, a service provider has received a rating of its performance by the Commission following an assessment of its performance under section 46(1) of the Act (reviews and performance assessments)(**3**).

(2) There must be shown on every website maintained by or on behalf of any service provider—

(a) the Commission's website address,

(b) the place on the Commission's website where the most recent assessment of the service provider's overall performance and of its performance in relation to particular premises or activities may be accessed, and

(c) the most recent rating by the Commission of the service provider's overall performance and of its performance in relation to particular premises or activities, in a way which makes it clear to which activities or premises a particular rating relates.

(3) There must be displayed at each premises from which the service provider provides regulated activities at least one sign showing the most recent rating by the Commission that relates to the service provider's performance at those premises.

(4) For the purposes of paragraph (3), where the service provider has not received a rating of its performance at those premises, the rating to be shown is the rating of the service provider's overall performance.

(5) There must be displayed at the service provider's principal place of business at least one sign showing the most recent rating of—

(a) the service provider's overall performance, and

(b) its performance in relation to particular premises or activities, in a way which makes it clear to which activities or premises a particular rating relates.

(6) But paragraph (5) does not apply where the service provider's performance at its principal place of business, or at the premises of which it is part, is itself subject to a separate performance rating given by the Commission (in which case paragraphs (3) and (4) apply).

(7) Any sign displayed, or anything shown on a website, under this regulation must—

(a) be legible,

(b) be displayed conspicuously in a place which is accessible to service users, and

(c) for each rating shown, show the date on which it was given by the Commission.

(8) This regulation does not apply to any premises that are—

(a) the service provider's own home, except where service users have access to it for the purposes of receiving services provided in the carrying on of a regulated activity, or

(b) a service user's accommodation where such accommodation is not provided as part of the service user's care or treatment."

(**3**) Section 46 of the 2008 Act was substituted by section 91(2) of the Care Act 2014.