Draft Regulations laid before Parliament under section 240(6) of the Local Government and Public Involvement in Health Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

NATIONAL HEALTH SERVICE, ENGLAND

The Local Involvement Networks (Duty of Services-Providers to Allow Entry) Regulations 2008

Made - - - -	*[ ]*
Coming into force - -	*1st April 2008*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 225(1) to (3) and (7) and 229(2) of the Local Government and Public Involvement in Health Act 2007(**1**).

[A draft of these Regulations was laid before Parliament in accordance with section 240(6) of the Local Government and Public Involvement in Health Act 2007 and approved by a resolution of each House of Parliament.]

Citation and commencement

1.—(1) These Regulations may be cited as the Local Involvement Networks (Duty of Services-Providers to Allow Entry) Regulations 2008.

(2) These Regulations shall come into force on 1st April 2008.

Interpretation

2. In these Regulations—

"the 2006 Act" means the National Health Service Act 2006(**2**);

"the Act" means the Local Government and Public Involvement in Health Act 2007;

"care home" has the meaning assigned by section 3 of the Care Standards Act 2000(**3**);

"care services" has the meaning given in section 221(6) of the Act;

"excluded activities" means any activities provided in pursuance of—

(**1**) 2007 c.28.
(**2**) 2006 c.41.
(**3**) 2000 c.14.

(a) the social services functions of a local authority so far as relating to persons aged under 18;

(b) the functions, in so far as not covered by paragraph (a), conferred on or exercised by a local authority under the Children Act 1989(**4**), the Adoption (Intercountry Aspects) Act 1999(**5**) or the Adoption and Children Act 2002(**6**); and

(c) the functions, in so far as not covered by paragraph (a), continuing to be exercisable by a local authority under the Adoption Act 1976(**7**);

"excluded premises" means—

(a) parts of a care home which are not communal areas;

(b) premises or parts of premises used as residential accommodation for employees of services-providers;

(c) premises which are occupied by one or more persons as their home and which at least one of those persons occupies under a tenancy or a licence;

"social services functions", in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970(**8**).

Duty of services-providers to allow entry by local involvement networks

3.—(1) A services-provider must allow an authorised representative(**9**) to—

(a) enter and view, and

(b) observe the carrying-on of activities on,

premises that it owns or controls.

(2) Paragraph (1) does not apply—

(a) in respect of any premises, or parts of premises, if the presence of an authorised representative on those premises, or those parts of premises, would compromise—

(i) the effective provision of care services, or

(ii) the privacy or dignity of any person;

(b) if the authorised representative does not comply with regulation 5;

(c) in respect of excluded premises;

(d) to observing the carrying-on of excluded activities;

(e) to entering and viewing premises, or parts of premises, for the purpose of observing the carrying-on of excluded activities;

(f) in respect of any premises, or parts of premises, at any time when care services are not being provided on those premises or those parts of premises;

(g) if, in the opinion of the services-provider, the authorised representative in seeking to enter and view, and observe the carrying-on of activities on, the premises that the services-provider owns or controls is not acting reasonably and proportionately;

(h) if an authorised representative does not provide the services-provider with evidence that the representative is authorised in accordance with regulation 4.

(**4**) 1989 c.41.
(**5**) 1999 c.18.
(**6**) 2002 c.38.
(**7**) 1976 c.36.
(**8**) 1970 c.42. Section 1A (meaning of "social services functions") was inserted by section 102(3) of the Local Government Act 2000 (c.22).
(**9**) See section 225(5) of the Act for the definition of authorised representative.