
DRAFT STATUTORY INSTRUMENTS

2014 No.

**The Health and Social Care Act 2008
(Regulated Activities) Regulations 2014**

PART 4

Compliance and Offences

Guidance and Code

21. For the purposes of compliance with the requirements set out in these Regulations, the registered person must have regard to—

- (a) guidance issued by the Commission under section 23 of the Act in relation to the requirements set out in Part 3 (with the exception of regulation 12 in so far as it applies to health care associated infections); and
- (b) in relation to regulation 12, in so far as it applies to health care associated infections, any code of practice issued by the Secretary of State under section 21 of the Act in relation to the prevention or control of health care associated infections.

Offences

22.—(1) It is an offence for a registered person to fail to comply with any of the requirements in the following regulations, as read with regulation 8—

- (a) regulation 11,
- (b) regulation 16(3), or
- (c) regulation 17(3).

(2) A registered person commits an offence if the registered person fails to comply with a requirement of regulation 12, 13(1) to (4) or 14, as read with regulation 8, and such failure results in—

- (a) avoidable harm (whether of a physical or psychological nature) to a service user,
- (b) a service user being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by a service user of the money or property concerned.

(3) It is an offence for a health service body to fail to comply with regulation 20(2)(a) and (3).

(4) But it is a defence for a registered person, or (in the case of regulation 20(2)(a) and (3)) a health service body, to prove that they took all reasonable steps and exercised all due diligence to prevent the breach of any of those regulations that has occurred.

Offences: penalties

23.—(1) Paragraph (2) applies if section 85(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽¹⁾ is in force on the day these Regulations are made.

(2) A person guilty of an offence under regulation 22(1) for breach of regulation 11 or an offence under regulation 22(2) is liable on summary conviction to a fine.

(3) Paragraph (4) applies if section 85(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is not in force on the day these Regulations are made.

(4) A person guilty of an offence under regulation 22(1) for breach of regulation 11 or an offence under regulation 22(2) is liable on summary conviction to a fine not exceeding £50,000.

(5) A person guilty of an offence under regulation 22(1) for breach of regulation 16(3) or 17(3) is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(6) A health service body guilty of an offence under regulation 22(3) is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(1) 2012 c. 10.