
DRAFT STATUTORY INSTRUMENTS

2013 No.

The National Health Service (Licence Exemptions, etc.) Regulations 2013

Persons to be regarded as the person who provides a health care service

2.—(1) This regulation applies for the purposes of determining, in relation to a health care service provided by two or more persons acting in different capacities, which of those persons is providing the health care service for the purposes of Chapter 3 of Part 3 of the 2012 Act (Monitor: licensing).

(2) A person (A) is to be regarded as the person providing a health care service where that service is provided by A and one or more other persons who are—

- (a) individuals, and
- (b) employees of A for the purposes of providing that service.

(3) For the purposes of paragraph (2), a person is an employee of A where that person—

- (a) is employed by A under a contract of service, an apprenticeship, a contract for services or otherwise than under a contract, or
- (b) has been granted practising privileges by A.

(4) In paragraph (3)(a), the reference to “otherwise than under a contract” includes an agreement between A and a temporary work agency for the supply of an agency worker to A.

(5) Except where paragraph (2) applies, both a person (B) and another person (C) are to be regarded as the person who provides the health care service where—

- (a) B has contracted with the National Health Service Commissioning Board⁽¹⁾ or a clinical commissioning group⁽²⁾ to provide that service, and
- (b) C provides that service under arrangements made between B and C.

(6) In this regulation—

“agency worker” and “temporary work agency” have the same meaning as in the Agency Workers Regulations 2010⁽³⁾; and

“practising privileges” means the grant by A to a registered medical practitioner of permission to practise as a medical practitioner in a hospital (as defined in section 275 of the 2006 Act) managed by A.

(1) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006 (c. 41) (“the 2006 Act”). Section 1H is inserted by section 9(1) of the 2012 Act.

(2) A clinical commissioning group is a body established under section 14D of the 2006 Act. Section 14D is inserted by section 25(1) of the 2012 Act. *See also* section 1I of the 2006 Act, inserted by section 10 of the 2012 Act.

(3) S.I. 2010/93. Relevant amendments were made by S.I. 2011/1941.